











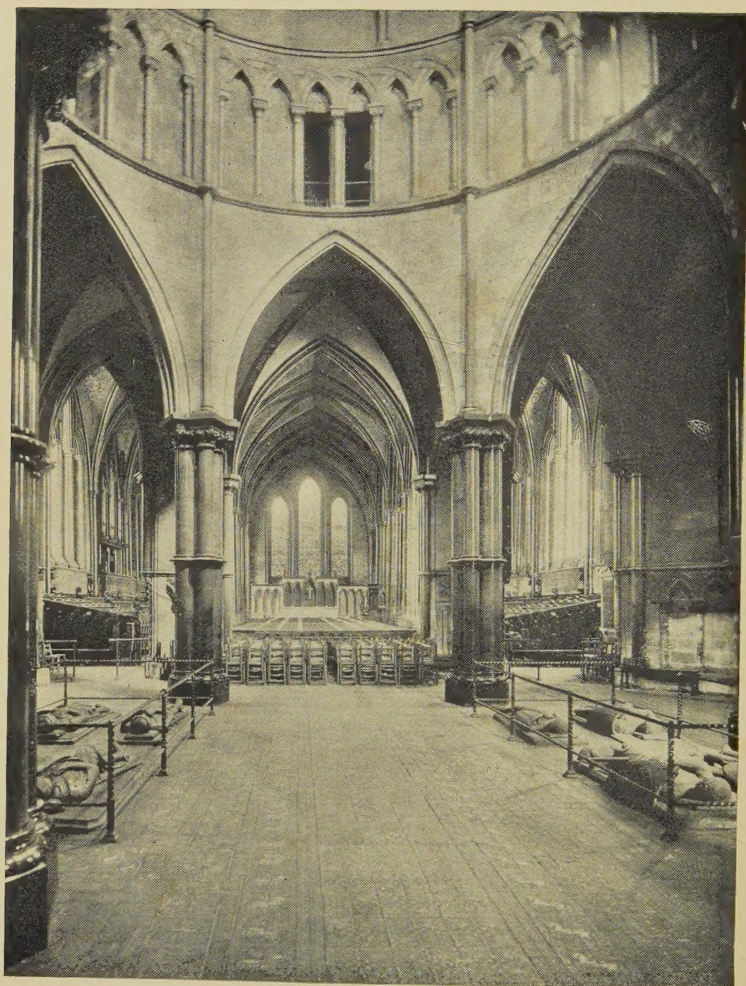
THE HISTORY OF THE TEMPLE  
LONDON



THE HISTORY OF THE  
COUNTRY

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TEMPLE CHURCH.

*H. Nelson King.*

Interior from the west end, shewing the recumbent effigies.  
 Round dedicated Feb. 10th, 1185. Choir dedicated Ascension Day, 1240  
 "Presente Rege et multis regni Magnatibus." Matt. Paris.

*[Frontispiece*



# THE HISTORY OF THE TEMPLE, LONDON

FROM THE INSTITUTION OF THE ORDER  
OF THE KNIGHTS OF THE TEMPLE TO  
THE CLOSE OF THE STUART PERIOD

Compiled from the Original Records of the Two Learned  
and Honourable Societies of the Temple

BY J. BRUCE WILLIAMSON

A MASTER OF THE BENCH OF THE HON. SOCIETY  
OF THE MIDDLE TEMPLE

LONDON  
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DEDICATED  
TO  
THE MASTERS OF THE BENCH  
OF

“the two Houses or Inns of Court comonly  
called ye Inner Temple and ye Middle  
Temple or ye Middle Temple and ye Inner  
Temple choose you whither For I know of no  
precedency betweene them they being alike  
equall in antiquity honour and estimacon”

*(Ancient MS. in the possession of the Honble.  
Society of the Inner Temple.)*





## PREFACE TO THE FIRST EDITION

IN this preface I desire first to acknowledge my obligations to the Masters of the Bench of the two learned and honourable Societies of the Temple for their courtesy in permitting me to have access to and make use of the original Records of both Houses. The published versions of these Records, though valuable as guides to their contents, are so different in phraseology and spelling from the actual books that it has been found necessary to make all quotations from the Records themselves. The references in the footnotes likewise are to the original books, but in some cases references to the published versions also have been given.

During the Tudor and Stuart reigns the years are entered in the books of both Societies according to the ancient manner of reckoning, each successive year commencing on the 25th of March. It has therefore seemed preferable to follow the same system rather than have recourse to a constant use of double figures for January, February, and March. The story of the Inns as here told is based primarily upon the Minutes of the Benchers. These, as official Records, are of the first importance. Free use has also been made of other contemporaneous information where such has been available. This particularly applies to the Middle Temple, regarding which there appears to be much more information of this kind than exists concerning the Inner House. Short notices have been inserted of many celebrated members of the Societies, as it was felt that the inclusion of these would add to the general interest of the book.

As the Records of neither Society have been published beyond the Stuart reigns the present account of the Inns closes with that period. This, however, is of the less importance, seeing that the waning of collegiate life in the Temple deprives the eighteenth century of much of the interest attaching to earlier times.

I wish to tender my best thanks to the Staffs of the Libraries of both Societies for many attentions received in prosecuting the researches necessary in compiling this history; and in particular I am under obligation to Mr. C. E. A. Bedwell, former Keeper of the Library of the Middle Temple, for valuable help in the earlier stages of its preparation, and to Mr. H. A. C. Sturgess, the present Librarian of that Society, for welcome assistance in the revision of proofs.

J. BRUCE WILLIAMSON.

3 ELM COURT, TEMPLE,  
*July, 1924.*

## PREFACE TO THE SECOND EDITION

THE favourable reception which has been given to this history has made it necessary to prepare a second edition. In doing so a few variations have been made in the original text and notes, but as these alterations are relatively of a trivial nature detailed reference is not made to them here. My thanks are due to all who have assisted me in detecting some *errata* which escaped notice when the first edition was passing through the press.

J. BRUCE WILLIAMSON.

3 ELM COURT, TEMPLE,  
*July, 1925.*



## NOTE ON AUTHORITIES AND ABBREVIATIONS

So far as concerns the Temple in legal occupation the following Authorities are of special importance :

INNER TEMPLE SOCIETY. Acts of Parliament, first five volumes, abbreviated in references as A.P. I to V, and which cover the following periods: I, 1505-1589; II, 1589-1638; III, 1638-1664; IV, 1664-1687; V, 1687-1740; Bench Table Orders, four volumes (first only paged), abbreviated as B.T.O. I to IV, covering the following periods: I, 1668-1688; II, 1685-1691; III, 1691-1698; IV, 1699-1714; General Account Books, 1606-1718; Special Account Book, 1682-1685; Christmas Accounts Book; Book of Admittances, 1547-1569 (ancient but not the original book); Admission Books from 1571 and Book of Calls to the Bar from 1638. Use has also been made of the Calendar of Inner Temple Records, 1505-1714, a modernized version of the Records of the Inn, published 1896-1901, abbreviated as I.T.R. I to III.

MIDDLE TEMPLE SOCIETY. Bench Minute Books covering the periods and abbreviated under the letters following: A 1501-1524, D 1550-1610, C 1610-1626, B 1626-1658, E 1658-1703, and H 1703-1747; Books of Admissions, 1658-1737; Book of Entries of Treasurers' Accounts, 1658-1727; Liber Benefactorum (gifts to library) and Brerewood MS. (*circa* 1638). Use has been made also of the modernized version of the above Minute Books, published 1904, 1905, cited as M.T.R., and (for some details of expenditure) of the Middle Temple Calendar, published 1908.



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PART I

THE REIGN OF FAITH

THE KNIGHTS OF THE TEMPLE

“Non nobis, Domine, non nobis, sed tuo Nomini da gloriam.”

*Battle Chant of the Templars.*



## CHAPTER I

### THE ORIGIN, RISE AND INFLUENCE OF THE KNIGHTS OF THE TEMPLE

CERTAINLY for more than five, perhaps for six, centuries the New Temple, London, to use the old historic title, has housed within its precincts the Professors and Students of the Common Law ; but lawyers were not its first inhabitants, and for the origin of the name it is necessary to go back to a more remote antiquity. The story begins with the Crusades. It is difficult now to appreciate the amazing upheaval in the life of Western Europe occasioned by those Wars of the Cross, and the unbounded enthusiasm with which the early Crusaders set forth to vindicate their right of access to the Holy Places of Palestine. In the mind of the devout believer the land which had been the scene of Christ's life on earth was naturally invested with a peculiar sanctity, and from a very early period in the Christian era a journey undertaken to visit it was esteemed a labour of meritorious piety. The alleged discovery in the fourth century of the Holy Sepulchre and the True Cross, under the auspices of the Emperor Constantine and his mother Helena, added a fresh incentive to such a pilgrimage ; and the churches which rose to express the thanksgivings of Imperial piety drew to their shrines Christians from every land. Nor did the triumph of Mahomet three centuries later, and the dominance in the East of a new and rival religion, put a stop to these journeys of devotion. The early Moslem rulers of Palestine were not so hostile to the Christian faith as to exclude its votaries altogether from the Holy City, and if their power added new hazards to the journey it also increased the merit of those who successfully accomplished it. Thus crowds of pilgrims, equipped with little more than the staff, the wallet, and the scallop shell, continued to find their way to Jerusalem, and were treated on the whole with a tolerant indulgence by its Mohammedan overlords. But the scene changed in the eleventh century when Palestine was swept by the conquering arms of the Seljuk Turks, and the pilgrims, confronted now by rulers fanatical and cruel, found

themselves the helpless victims of violence and extortion of every kind. Many perished under the treatment they received, while those who survived brought back lamentable tales of outrage and suffering. To the mind of Christendom, profoundly disturbed by these recitals, came, in 1095, as the spark to tinder, the appeal addressed by Pope Urban II at the Council of Clermont, to all the faithful to rise and rescue the Holy Places once and for all from the defiling hands of the unbeliever. The effect was stupendous. All earthly values seemed to dissolve and disappear. The habits of life, the objects of ambition which control and allure the minds of men, became as naught. The new duty displaced every other consideration. All alike, high and low, rich and poor, were drawn by an irresistible impulse to the sacred task of deliverance.

“Fields were deserted by their cultivators,” wrote William of Malmesbury, “houses by their inhabitants; whole cities migrated; family affection counted for nothing, love of country seemed a paltry thing; God only was before their eyes. Whatever was stored in barns or chambers to provide for the future needs of the greedy husbandman as well as the hoarded treasure of the miser, was left behind. The road to Jerusalem alone was hungered after. Joy was the portion of those who set out, grief that of those who remained behind. But why do I say remained? You might see the husband setting forth with his wife, nay rather followed by all his family. You would smile to see the whole household loaded on waggons to take the road. The path was too narrow for the passengers, the way too confined for the travellers, as the moving multitudes packed together in long succession hurried on. Their number seemed to defy human computation. It was estimated at six millions. Without doubt never before did so many races combine for one purpose, never did so undisciplined a host submit its stubbornness to one, indeed almost to no direction.”<sup>1</sup>

It would be foreign to the present purpose to follow in any detail the events of the first Crusade. Here it must suffice to state that, after the inevitable disasters which befell the mob that first poured across Europe, the military leaders of the more disciplined forces restored the fortunes of the cause, captured

<sup>1</sup> *Gesta Regum Anglorum* (Rolls Series), II, 399.



Nicæa in 1097, Antioch in 1098, and the Holy City itself in 1099. Thus was founded the Latin Kingdom of Jerusalem with Godfrey de Bouillon as its first ruler, though he declined the title of King, refusing, it is said, to wear a crown of earthly pomp where the Redeemer had worn a crown of thorns.

Complete as was the recovery of the holy places the armed forces of the Crusaders were not sufficiently numerous to give them effective occupation of the whole of Palestine, and the Christian pilgrims were still exposed to attack by marauding bands, while toiling from the seaports to their goal of devotion in the Holy City. Distressed by the sufferings thus occasioned a Burgundian and a French knight, Hugh de Payens and Godfrey de St. Omer, resolved to dedicate their lives to the service of the pilgrims, and give them protection by arms from the robbery and violence to which they were exposed. Renouncing accordingly all earthly ambition, they elected to live like ecclesiastics under regular rule after the order of St. Augustine, and took upon themselves before the Patriarch of Jerusalem the vows of chastity, poverty,<sup>1</sup> and obedience. As they had no fixed place of abode, Baldwin II, King of Jerusalem, gave them a residence within the precincts of his own palace on Mount Moriah near the church known as the Temple of Solomon, while the clergy of the Temple, inspired by his example, added ground for the erection of necessary offices, and other benefactors supplied the means of maintaining the Knights in food and clothing. From their sacrifice of all worldly advantage, and this the first place of their settlement, they became known as the poor fellow-soldiers of Christ and the Temple of Solomon (*Pauperes Commilitones Christi et Templi Salomonis*). Thus was founded in 1118 the famous Brotherhood of Soldier Monks—the Knights of the Temple.<sup>2</sup>

At first their progress was slow; few joined them in their seemingly inglorious toil. At the end of nine years they had only obtained seven recruits. Then, however, the saintly Bernard of Clairvaux lent them the aid of his powerful advocacy, and drew up for their guidance rules of conduct soon embodied in the more elaborate code which received the sanction of the

<sup>1</sup> This was a vow of individual poverty; it did not prevent the fraternity owning property for the purposes of the Order to any extent.

<sup>2</sup> The story of the founding of the Templars Order has been told by many mediæval writers: see e.g.—Will. of Tyre, Lib. 12, c. 7: James of Vitry (*Historia Orientalis*), Lib. 2: Matthew Paris, *Chronica Majora* (R.S.), II, 144: *Historia Minor*, Index Rerum, note (Edit. 1640): Roger of Wendover, *Flores Historiarum* (R.S.), 144 (Anno 1118).

Council of Troyes (1128). By Pope Honorius II they were given a distinctive habit in a white mantle, symbolical of purity and innocence; to which, twenty years later, Pope Eugenius III added the red cross—seal and badge of martyrdom—thus proclaiming by the sign they bore the dedication of their lives to the defence of pilgrims and the Holy Land.<sup>1</sup>

Under Papal patronage the prosperity of the Order now advanced by leaps and bounds. As their numbers increased the original object of the founders became merged in wider duties till, with the companion Order of the Hospitallers (re-constituted after their example on a military basis), they became the standing Army of the Cross and the bulwark in the East of the Catholic Faith. To an age to which knightly prowess spoke with compelling force their self-sacrificing devotion and the fame of their exploits in arms made an irresistible appeal. In them Christendom beheld the skill of the accomplished soldier united to the noblest religious enthusiasm. The secular knight might fight for his Prince or dedicate his sword to the service of his chosen lady, but they knew only the service of God and the Blessed Virgin Mary. Little wonder if in the popular mind the chapelles de fer of their earthly warfare shone surrounded with the aureole of the saint. Scions of the noblest houses flocked to join them; Prelates and Princes vied with one another to do them honour; and wealth poured in upon them from the benefactions of the Faithful. Enriched by territories conquered from the unbelievers, they also became possessed of landed estates in every country of Western Europe, so that William of Tyre could write there was not a province of Christendom which did not contribute to their maintenance, and that in wealth they were the Peers of Kings.<sup>2</sup>

By the famous Bull *Omne datum optimum*,<sup>3</sup> first published in 1162 and a second time ten years later,<sup>4</sup> Pope Alexander III raised the Order to a position of extraordinary privilege, and rendered them immune from all jurisdiction, lay or ecclesiastical, other than that of the Holy See. Nor were these rewards,

<sup>1</sup> Some early writers state the cross was borne on the left shoulder. But Pope Alexander III, in the Bull *Omne datum optimum*, speaks of the Templar carrying continually on his breast the sign of the life-giving cross (*signum viviscæ crucis in vestropectore assidue circumfertis*). On the military mantle it was probably borne on the left breast.

<sup>2</sup> Lib. XII, c. 7.

<sup>3</sup> So named from its opening words, "Every good gift and every perfect gift is from above, and cometh down from the Father of lights, with whom is no variableness, neither shadow of turning": James i. 17.

<sup>4</sup> Rymer, I, 30.

more dangerous perhaps to human frailty than the worst perils of a ruthless warfare, undeserved. Judged by the testimony of contemporary writers the courage and devotion of the Templars were beyond all praise. In the early days of their warfare few survived to die a natural death, yet such, at the height of their renown, was the splendour of their fame and the religious fervour of the Age that fresh recruits were never long wanting to supply the vacant places in their decimated ranks.

“When the call to arms is given,” wrote James of Vitry, Bishop of Acre, “they ask not the numbers of the foe but only where he may be found. Lions in war they are docile as lambs in the cloister; stern soldiers in the field, in the Church they are as hermits and monks. To the enemies of Christ hard and fierce, but to Christians benign and gentle. The battle flag borne before them, which they call *beaucéant*, is two-coloured, white and black, proclaiming that to the friends of Christ they are radiant and kindly, but to His enemies dark and terrible. . . . Their courage and their combats, and their glorious victories over the foes of Christ, the whole Church of the Saints will recount. Soldiers from all the earth, not only those of lower degree but Chiefs and Captains (*Duces et Principes*), inspired by their example to burst the fetters of the world and renouncing all for Christ, flock to join them, desiring to share their vows and profession and casting aside all vain pomp and carnal delights (which they esteem as dung) have embraced with supreme devotion the warfare of Christ and the humility of religion.”<sup>1</sup>

The first settlement of the Knights in England is believed to date from the visit of Hugh de Payen in 1128. After attending the Council of Troyes in that year, this first Chief or Grand Master of the new Order was received in Normandy with much honour by Henry I, who bestowed upon him, says the Saxon Chronicle, rich presents in gold and silver and sent him into England where, and in Scotland also, he was honourably received

<sup>1</sup> See *Historia Orientalis*, Jacobi de Vitriaco (Edit. 1597), Lib. II, tit. “De Religione Fratrum Militum Templi,” 117, 118. This writer was with the Templars on their expedition to Egypt in 1219 and himself witnessed their exploits.

by all good men.<sup>1</sup> For their headquarters in England the Templars naturally chose the neighbourhood of London, and built their first House in the parish of St. Andrew, Holborn, near the north end of the modern Chancery Lane. Little is known regarding the buildings they there erected, except that they included a church constructed of stone, brought from Caen in Normandy, and round in form after the pattern of the Church of the Holy Sepulchre at Jerusalem. As their wealth and numbers increased the accommodation this site afforded apparently became inadequate for their needs, for at some date between the years 1155 and 1162<sup>2</sup> they parted with it to their neighbour, Robert de Chesney, Bishop of Lincoln, for the price of one hundred marks and a small annual payment by way of rent service.<sup>3</sup> This mansion, subsequently known as the Old Temple (*Vetus Templum*), is noticed by John Stow in his Survey of London, published in 1598, as follows :—

“ It hath of late years belonged to the Earles of Southampton and therefore called Southampton house. Master Roper hath of late builded much there; by meanes whereof part of the ruines of the old Temple were seene to remain builded of caen stone round in forme as the New Temple by Temple barre and other Temples in England.”<sup>4</sup>

From this their first house the Knights moved down to a new site pleasantly situated on the banks of the Thames, where they established themselves afresh and set to work to rebuild their church.<sup>5</sup> What building, if any, existed on this ground before they occupied it, is not known. FitzStephen, the biographer of Becket, and himself a Londoner, in his famous description of his native city at this time, states that from the

<sup>1</sup> Saxon Chron. Anno 1128; Ingram's Translation (1823), 357, 358.

<sup>2</sup> The King's confirmation of the sale to the Bishop is undated but witnessed by (*i.a.*) Thomas Becket as Chancellor. He held that office from 1155 till August, 1162. The sale included “domos que fuerunt fratrum templi in London. in parrochia Sancti Andree de holeburn cum capella et gardiniis et omnibus earum pertinentiis”: Cotton MS. Vespas. E XVI 14<sup>b</sup>. The See of Lincoln held the old Temple till the reign of Ed. VI when it passed to John Dudley, Earl of Warwick, and later Duke of Northumberland, who sold it to L.C. Wriothesley, Earl of Southampton.

<sup>3</sup> “Tres aureos pro omni servitio” are the words used. Possibly they mean three marks in gold. The noble was a later coin.

<sup>4</sup> Survey (Edit. 1908), II, 87, 88.

<sup>5</sup> Henry II granted the advowson of the church of St. Clement Danes to the Templars, who may have used that church while the new Round Church was being erected: Monasticon, VI, 818.



city walls to the King's palace at Westminster there was a continuous succession of houses surrounded by gardens and orchards,<sup>1</sup> and if this description be correct, it was probably to one of these houses that the Knights now removed. How they became possessed of their new holding, whether by purchase or by the liberality of some pious benefactor, there is at present no evidence to show. Nor is it known what other buildings in addition to their Round Church they at first erected for their new home. But seeing that the London Preceptory was the head of all the other establishments of the Order in England, Scotland, and Ireland, it seems probable that neither labour nor expense were spared in providing a sumptuous house, according to the standards of the age, for the Grand Preceptor and his Brethren, who by right of birth, as well as religious and military eminence, naturally associated with the noblest in the land. To distinguish it from the former house in Holborn, which still retained the name of the Temple (*Vetus Templum*) the Knights' new abode became known as the New Temple (*Novum Templum*), a description by which it continued to be designated even long after it had passed into the occupation of the apprentices of the Law.

That the ground which the Templars thus occupied was extensive appears from what is later known of the limits of their holding. On the south it was bounded by the river, and on the north by the roadway subsequently known as Fleet Street and the Strand; but the bounds east and west are less certain. It has been usual to define them as the White Friars establishment on the east and the Bishop of Exeter's house on the west, but as that Friary did not come into existence until the reign of Henry III, and there appears to be no evidence that the Exeter See held property in this neighbourhood during the twelfth century, such a description can only indicate what the boundaries were at a much later date. In the absence, however, of evidence that the Knights parted with any of the land they had acquired for their new home, the fair inference seems to be that these later limits correctly indicate its original extent.

Across the Thames and opposite the New Temple the Knights also obtained possession of certain land fronting on the river, known as the hide of Wideflete, which was demised to them in 1166 by the Monks of Bermondsey with its men, mills, waters, and ponds, at a yearly rent of 10 marks sterling.<sup>2</sup>

<sup>1</sup> Vita S. Thomæ (R.S.), No. 67, III, 3; see also Stow's Survey of London (Edit. 1908), II, 70.

<sup>2</sup> Annales Monastici (R.S.), III, 442.



From the Holborn highway to Fleet Street a road was made about this time (probably by the Knights themselves), called New Street,<sup>1</sup> which is now represented by the modern Chancery Lane. West of this lay open ground, and here they acquired a field some fifteen acres in extent, known as Fikettscroft or Fikettsfield, and probably used by them, as by the Hospitallers in later times, for practice in martial exercises.<sup>2</sup>

One other possession of the Templars, held in connection with the New Temple, remains to be noticed. Across the roadway in Fleet Street and on the City side of New Street the Knights established two forges, necessary no doubt for the forging and repair of their armour and weapons, and the shoeing of their horses. These subsequently passed to the Hospitallers, and their position is known from a petition presented to the King in Parliament by that Order, in 1485, praying to be relieved of a rent of 15s. p.a. payable in respect of them. Both fronted upon the highway, one forge being on the west and the other on the east side of St. Dunstan's Church.<sup>3</sup>

By the year 1185 the Knights had completed their new round church.<sup>4</sup> The times were critical for the Christian power in Palestine. Eighty-five years had passed since the founding of the Kingdom of Jerusalem, and to the single-minded enthusiasm of the early Crusaders had succeeded worldly ambitions with resulting rivalries and feuds, bringing disaster in their train to the cause of the Cross. The old religious fervour which formerly had made their swords invincible, seemed to have passed to the unbelievers, and with a child (Baldwin V) on the throne the defenders of the Latin Kingdom were sorely beset

<sup>1</sup> In an Inspeximus charter of 1315, it is referred to as "Newstrete of the Templars": see Pat. Rolls, 9 Ed. II, Pt. I, m. 20; Cal. 1315, p. 356.

<sup>2</sup> See grant quoted in Cunningham's "London" (1850), p. 181:—"Terram sive campum pro saltationibus turnamentis aliisque exercitus equitum militumque regni nostri Angliæ presertim vero equitum Sancti Johannis Hierosolimitani."

<sup>3</sup> The material words of this petition are as follows: "Whiche ij Forges, oone of theym was edified and sett a little from the Churche of Saint Dunstene in Flete Street, upon the Est partie thereof and conteynyn in length 18 footes of assize and in brede 14 footes; and the other Forge was edified and set upon the West side of the same Churche in the same strete whiche conteyned in length 15 footes of assize and in brede 11 footes": Rot. Parl. VI, 313. See also Pat. Rolls, 24 H. VI, Pt. II, m. 17; Cal. (1446), 447, and *post*, p. 89.

<sup>4</sup> It has been usual to give this year as the date at which the Templars settled at the New Temple. But as they sold the Old Temple more than twenty years earlier, and in 1163 buried at the New Temple the body of Geoffrey de Mandeville, which they had long had in their keeping, they probably removed there before that time. As to this incident see "Geoffrey de Mandeville," J. H. Round, p. 225.

by the conquering arms of Saladin. In this emergency their thoughts turned to Henry II of England, the shrewdest as he was also the most powerful potentate of his day, and the Patriarch of Jerusalem, accompanied by the chiefs of the two great religious Orders, was despatched to the West, with the banner of the Holy Cross and the keys of the Church of the Holy Sepulchre and of the Tower of David as credentials of his errand, to invoke the King's aid and offer him the crown of Jerusalem if he would come in person to deliver the guardians of the Faith from their formidable foe.<sup>1</sup>

The Grand Master of the Temple (Arnold de Torroge), stricken by illness on the way, died at Verona, and the mission failed of its object, for Henry, fortified by the advice of his magnates, declined the proffered honour, but advantage was taken of the presence of the Patriarch in England to celebrate the consecration of the Round Church at the New Temple. Thus it came about that, as an ancient Latin inscription<sup>2</sup> on the church recorded, the dedication ceremony was performed on the 10th of February, 1185, in honour of the blessed Mary by the Lord Heraclius by the grace of God Patriarch of the Church of the Holy Resurrection. This is the first recorded incident in the history of the New Temple, and although the original inscription<sup>3</sup> with the stone on which it was graven has perished, a copy of the words may still be seen within the church, over the west doorway through which many of those must have entered, who took part in that service of dedication now more than seven centuries ago. No account of this service has come down to modern times, and the names are not known of those who attended to do honour to the occasion, but having regard to the King's presence in London about this time, when he summoned a great Council to meet him in the Hospitallers House at Clerkenwell,<sup>4</sup> and the high esteem in which he held the

<sup>1</sup> See Roger of Wendover (R.S.), I, 133-6.

<sup>2</sup> This inscription has been thus rendered in English by the late Rev. H. G. Woods, formerly Master of the Temple—"On the 10th of February, in the year from the Incarnation of our Lord 1185, this church was consecrated in honour of the Blessed Mary by the Lord Heraclius, by the grace of God Patriarch of the Church of the Holy Resurrection who, to those yearly visiting it, granted an indulgence of 60 days off the penance enjoined upon them": Worsley's Bk. (Ingpen), 103.

<sup>3</sup> Engraved in Saxon capital letters over a little door then next the cloisters this inscription was unhappily destroyed by workmen in 1695. The words, however, have been preserved and transcribed; see Stow's Survey (Strype), I, 272. They are also recorded in the Petyt MS., No. 538, compiled c. 1630.

<sup>4</sup> Wendover, *supra*.

Knights of the Temple there can be little doubt that Henry II himself was present with the chief nobles of his Court.

Though little more than half a century had elapsed since the Knights were first established in Holborn, they had already acquired in England great possessions. King Stephen had confirmed grants of land made to them before his accession to the throne,<sup>1</sup> and both he and his Queen Matilda had added benefactions of their own.<sup>2</sup> Henry II continued the same policy of royal favour,<sup>3</sup> and the extent to which private donors had followed his example may be seen by reference to the Inquisition which Geoffrey FitzStephen, then Master of the Order in England, caused to be taken in regard to the property of the Templars during the year of the dedication of the Round Church by the Patriarch Heraclius.<sup>4</sup>

The Order was now fully consolidated and the general nature of its constitution may here be indicated. At first it consisted of Knights only who were all required to be of noble birth. The next step had been the admission of the Serving Brothers (*fratres servientes armigeri*) who attended upon the Knights. These were not required to be noble, it sufficed if they were free born. This addition to the membership greatly increased the effectiveness of the Order as a military force. But as the Knights and Serving Brethren, though bound by monastic vows, remained laymen, they depended for the ministration of the offices of the Church upon the services of priests who, being outside the Brotherhood, were not specially devoted to its interests. To remedy the inconvenience thus arising and save the Brethren from attending public services where they must mix with unprofessed laymen and crowds of women, very perilous to the souls of brothers vowed to a religious life, Pope Alexander III in 1162 still further extended the membership by admitting Priests (*Fratres Capellani*) to the Order.<sup>5</sup> Thus the Templars became independent of all control save that of the Supreme Pontiff, and as the proceedings of their chapters were secret, virtually a sealed book to the rest of the Catholic Church.

<sup>1</sup> Monasticon, VI, 819.

<sup>2</sup> The Manors of Cressing and Witham in Essex and of Cowley in Oxfordshire.

<sup>3</sup> An early grant of Henry II was a mill on the Fleet: Monasticon, *supra*, 818.

<sup>4</sup> See this Inquisition, Monasticon, VI, 821-31.

<sup>5</sup> By the Bull "Omne datum Optimum": "Indecens enim est et animarum periculo proximum religiosos fratres occasione adeundæ ecclesiæ se virorum turbis et mulierum frequentiæ immiscere": Rymer, I, 31.

The admission of priests, however, did not place them on a footing of equality with the lay brethren, to whom were reserved all the powers of government. Further, only a Knight who had taken the vows of the Order could hold the office of Grand Master, and to the Grand Master all the members were bound by their vows to render implicit obedience. In the Church at large authority lay with the priest, only he could bind and loose, could pronounce the dread sentence of excommunication, and grant deliverance from it by absolution. This was the power by which, in the Middle Ages, the Church was able to lay a restraining hand on the most licentious Rulers and even to shake the thrones of Kings. In the fraternity of these military monks the position was different. For here the priest was subservient to the layman, being bound by the decisions and regulations of the chapter in which he had no voice other than that of a consultant, if and when called into council. It was this peculiar feature of the Order, coupled with the secrecy of their chapters, which later led to the charge preferred against them that the Grand Master and Preceptors, when reconciling an offending brother after penance, presumed though laymen to pronounce in chapter sentence of absolution from sin.

There appears to be no extant version of the Rules originally drawn up for the Knights by St. Bernard, but the provisions are known of the more elaborate code contained in 72 Articles approved by the Council of Troyes in 1128, and these are followed in the summary now given of the regulations which governed the life of these first tenants of the New Temple.<sup>1</sup>

Attendance at Matins was strictly enjoined upon all, that none might halt in the fight, but each be ever prepared for the crown (9). This applied to those in residence in the Templars'

<sup>1</sup> The latest account of the rules of the Order will be found in "La Règle du Temple" of M. Henri de Curzon (Paris, 1886). He has collated three early MSS. preserved respectively at Rome, Paris, and Dijon. The first of these is the 72 articles in Latin, annexed to the Procès-verbal of the Council of Troyes. This is the version followed in the account here given. It agrees with the regulations published in Favine's "Theatre of Honour" (London, 1623), Book IX, c. 8, though that author does not state whence he derived his account of these rules. St. Bernard's draft is believed to have been prepared in French, and M. Henri de Curzon gives the principal place in his account to a French MS. in which the order of the rules differs from the Latin version which he prints beneath in notes, altering the order to agree with the French text, but giving in each case both numbers. The numbers of the Latin official version are those quoted here. M. de Curzon's work also includes more detailed and elaborate regulations of conventual and military life in the East. In Favine there is an English translation as well as the Latin version.



houses. When travelling abroad or on active service other spiritual exercises were prescribed—13 paternosters for Matins, 7 for every hour, and 9 for vespers (10).

All meals were to be taken in common in the Hall or Refectory. All loud talking was discouraged. Wants were to be made known by signs, or if by speech gently and with due reverence to those at table, following the words of the apostle, "Eat thy bread in silence," and of the Psalmist, "I have set a watch before my mouth" (8). In diet they were to be moderate but not ascetic, and meals were to be taken two and two that one might watch the other to safeguard moderation alike in abstinence and indulgence. Meat was only to be eaten three days in the week (certain festivals excepted) and on other days dishes of pulse, beans, and the like were to suffice. Wine was allowed in equal portions and of equal strength (10, 11, 12). During dinner and supper there was to be sacred reading, for those who love the Lord ought always to desire to hear His wholesome words and precepts (9). At the conclusion of dinner and supper thanks were always to be given to Christ the provider with a humble heart, and the fragments which were left distributed to the servants or given to the poor in brotherly charity (14).

At sunset on the ringing of the bell, all were to attend compline, before which, if the Master thought fit, a general light collation might be allowed and wine partaken of, but sparingly and mixed with water "*quia*<sup>1</sup> *apostatare eciam sapientes videmus*" (16). After compline all were to retire to rest when conversation was not to be permitted, except such as the urgency of military affairs might render necessary, and what was then said must be spoken softly, for in much speaking you escape not sin and life and death are in the hands of the tongue (*in manibus lingue*) (17). For sleeping, a sack, a mattress, and a covering were to be sufficient, and all were enjoined to sleep clothed in shirt and breeches, and with a lamp always burning (*usque mane nunquam desit lucerna*) (70).

For their daily habit their garments were to be of one colour: white for all the named knights of Christ (*nominatis militibus Christi*) as emblematic that, having separated from the world, they had laid aside a dark life and were pledged to chastity which is the security of the soul and the health of the body. To the other brethren it was only permitted to wear black or

<sup>1</sup> After "*quia*" Favine inserts "*vino*."



brown (*burrell*) (20, 21, 22). Any brother desiring the best or finest garments was to be given the worst (25). All were to keep their hair and beards trimmed with regularity so that there should be neither superfluity nor eccentricity (*facetiæ vitium*) (28, 29). Each Knight might have three horses, but gold and silver were not to be used on bridle, spur, or armour, and if received by way of gift such metals were to be coloured to dim their lustre, that all appearance of arrogance might be avoided (30, 37).

All were to render implicit obedience to the Master of the Order, remembering the saying of the Lord, "I came not to do Mine own will but His that sent Me" (33). Any gifts received were to be handed to the Master and only used with his permission (43). Lands might be held by the Order and cultivated for them by husbandmen, but such they must govern justly (51). Hawking was forbidden as a worldly delight unbecoming the sobriety of the religious life, and they were not to shoot with bows or guns (*cum arcu vel abalista*), or to hunt crying on dog or spurring horse (46, 47); but the Lion might always be stricken, for he goeth about seeking whom he may devour, and his hand is against every man, and every man's hand against him (48).

Married brothers might be admitted to membership provided they bound themselves to give at death a portion of their goods to the unity of the Common Chapter, meanwhile living honestly and labouring for the good of the Brethren; but to none such was it permitted to wear the white habit and military mantle of the Order (55). No sisters were to be admitted, because the ancient enemy of souls, through the society of women, has driven many from the straight path to Paradise (*expulit a recto tramite paradisi*) (56). Boys also were not to be admitted, for it is better not to assume vows in youth than after in manhood to draw back (62).

Confession of faults was to be made to the Master of the Order, and where the fault was great the offender was to be separated from the rest of the Brethren and made to eat alone (67). All emulation, envying, spite, murmuring, whispering, and detraction were to be avoided, and where one Brother received offence from another he was to correct the offender peaceably and in brotherly love as the Lord had commanded (71). If a Brother would not amend after admonition, but grew greater and greater in pride, he was to be rooted out from the flock in accordance with the injunction *auferte malum ex vobis*, for it is necessary that a dying sheep be removed from the society of

faithful Brethren (68). Finally, because it was perilous for Brethren bound by religious vows to look too much on the countenances of women, no Brother was to kiss Widow or Virgin, Mother, Sister, or Aunt, or any other woman (72).

For administrative purposes the area of the Order's operations was divided into Provinces, which numbered three in the East—the Kingdom of Jerusalem, the Principality of Antioch, and the Principality of Tripoli; and nine in Europe, viz.—France with the Netherlands and Holland, England with Scotland and Ireland, Portugal, Castille with Leon, Aragon, Germany with Hungary, Upper with Central Italy, Sicily with Apulia, and Greece.<sup>1</sup>

The Supreme Command rested with the Master of the Order in Palestine, called the Grand Master. The separate estates were controlled by Preceptors, themselves subject to the chief House or Grand Preceptory of their Province. In England the Grand Preceptor came to be known as Master of the Temple in England, though in State documents he is generally more accurately described as “Magister Militiæ Templi in Anglia.”<sup>2</sup>

The estates of the Order were managed in the interests of the common object, the defence of Christianity in the East, and the revenues they yielded devoted to that purpose.<sup>3</sup> They formed a network over Christendom, and the means of communication this elaborate organisation afforded led to the Templars becoming the financial agents of the Crusaders and later the Bankers of Kings and Princes.<sup>4</sup>

From the first the Knights in England were closely associated with the royal Court, and the prestige this connection gave the Order no doubt often induced them to undertake duties not contemplated by their pious Founders. As laymen, yet invested with ecclesiastical sanctity and a power within the kingdom though not of it, their counsel was frequently sought by embarrassed Rulers often at issue with rebellious subjects in the rude age in which they flourished. Thus the New Temple became a

<sup>1</sup> For further particulars see Addison's *Knights Templars*, Ch. V, p. 81 *et seq.*

<sup>2</sup> As the Master exercised a general supervision over all the establishments of the Order in England, Scotland, and Ireland, there was also at the Temple in London a Preceptor to attend to the local affairs of that Preceptory.

<sup>3</sup> Jac. de Vitriaco, *Hist. Orientalis* (Edit. 1597), 120.

<sup>4</sup> In France the Temple at Paris became the centre of the administration of the royal finances. Further, Blanche of Castile, Alfonso of Poitiers, Robert of Artois, and many others banked there. The Popes also entrusted to the Templars the monies collected for the Holy See: Lavissee, *Hist. de France*, III, 176, 177.

recognized centre of meeting and conference in great affairs of Church<sup>1</sup> and State. Bound to the Popes by a peculiar allegiance, the hospitality of the Templars was often extended to foreign Prelates and other officers of the mediæval Church who visited England on the business of the Holy See. The Master of the Temple ranked as one of the Magnates of the Realm, and successive Kings made use of his services as envoy in the conduct of negotiations with other Princes.

It would be foreign to the present purpose to attempt to trace in detail the history of the Order which is principally concerned with events in the East, but some reference to incidents in which they played a part during the reigns of the Angevin Kings will not be out of place, as illustrating the importance of the New Temple in the home and foreign affairs of England during the Middle Ages. Indeed, the instances which might be cited date back to the time when the Knights were in occupation of their first house in Holborn, for the Templars seem to have taken part in the settlement in 1153 of the struggle between King Stephen and the Empress Matilda, the charter which embodied the terms of settlement and secured to her son, Henry of Anjou, the succession to the English Crown having appended to it, after the names of the Bishops and before those of the eighteen lay Barons who also attested that document, the name of a member of the Order (possibly the Master in England at that time), "*Otum Milite Templi*."<sup>2</sup> Five years later, when Henry II had mounted the throne, Richard de Hastings, the then holder of the office, negotiated as the King's envoy the conditions of the peace arranged between Henry and Louis VII of France, and the agreement subsequently ratified for contracts of marriage between Henry's young sons, Henry and Richard, and the infant daughters of the French King. Further, it was to the custody of the same Master of the Temple, together with two other Knights of the Order (Robert de Pirou and Tostes de St. Omer) that the castles of Gizors and Neaufle, agreed to be surrendered to Henry when the marriages were performed, were meantime entrusted for safe keeping.<sup>3</sup>

During the quarrel with Becket Hastings played a conspicuous part in the efforts made to promote a reconciliation

<sup>1</sup> As to ecclesiastical assemblies held at the New Temple, see *Concilia Mag. Brit.* (Wilkins), II, 19, 26, 93, 239, 253, 272, 292; also *Pat. Rolls*, 27 Ed. I, m. 5; *Cal.* (1299) 450, 451.

<sup>2</sup> *Rymer*, I, 13, 14.

<sup>3</sup> *Hoveden (R.S.)*, I, 217, 218.

between King and Prelate. Roger of Hoveden has told with graphic pen the story how, in 1164 at the Council of Clarendon, Hastings, with the Bishops of Salisbury and Norwich and the Earls of Leicester and Cornwall, appeared to have succeeded in his attempt, when the stiff-necked Churchman, suddenly going back on his own word, once more raised anew the whole dispute, so that, despite all the efforts of the peacemakers, the conflict as to whether the clergy of England were to be bound by the laws of England went on to its tragic end.<sup>1</sup> To the last Henry maintained cordial relations with the Order, and the first bequest in his will (dated Waltham, 1182) was a legacy of 5000 marks in silver to the Knights of the Temple.<sup>2</sup>

The reign of his successor, the redoubtable Richard Cœur de Lion, throws little light on the history of the New Temple, for though pre-eminently the Knight Crusader, that monarch spent little time in England, and his relations with the Order, intimate as they were, belong to the annals of the East. It should be noticed, however, that in the first year of his reign he granted the Knights a charter confirming them in all the possessions and privileges they held and enjoyed throughout the whole of his dominions.<sup>3</sup>

With the violent and unstable John the case is different. He leant much on the Templars for support, and his gifts to them included Lundy Island.<sup>4</sup> A member of the Order, Brother Roger, was his almoner and employed by him in other business than appertained to that office.<sup>5</sup> Aymeric de St. Maur was the Master of the Temple in England during John's reign, and with William Marshal, the renowned Earl of Pembroke, remained to the last the faithful adviser of that unhappy monarch. In 1203 his name appears attesting as a witness the charter settling the dowry of John's Queen, Isabella of Angouleme,<sup>6</sup> and in the following year he visited Normandy as the King's envoy.<sup>7</sup> Threatened at home by the rising resentment of his subjects and abroad by the arms of France and the spiritual penalties of Rome, John seems from time to time to have sought the shelter

<sup>1</sup> Hoveden (R.S.), 221, 222. See also Gervase, *Opera Historia* (R.S.), I, 177.

<sup>2</sup> Rymer, I, 57.

<sup>3</sup> Rymer's *Foedera* (Rec. Com.), I, 49. The grant is expressed to be made "*pro salute animæ nostræ et pro anima Regis H. patris nostri et A. Regina matris nostræ et omnium antecessorum nostrorum.*" No doubt there was also a pecuniary consideration. It is dated October 6th.

<sup>4</sup> *Monasticon*, VI, 818.

<sup>5</sup> *Close Rolls* (Rec. Com.), I, 230-8.

<sup>6</sup> First of the lay witnesses: Rymer, I, 134.

<sup>7</sup> Hardy, *Rot. de Liberate* (Rec. Com.), 81; also *Rot. Claus.* I, 17.



which the sanctity of the Templars' houses afforded. It was from their Preceptory at Ewell, near Dover, that he set forth in May, 1213, to make his submission to the Pope's Legate and receive back his kingdom as a fief of the Holy See,<sup>1</sup> borrowing from Brother Aymeric the mark of gold with which he made his offering when absolved from his sentence of excommunication.<sup>2</sup> Further, it was at the New Temple, whither he had hastened after a hurried Christmas at Worcester in 1214,<sup>3</sup> and where he resided from the 7th till the 15th of January,<sup>4</sup> that he received that formidable deputation of the Barons sent to demand a confirmation of the ancient laws and liberties he was habitually setting at defiance, which filled him with such bodily fear, that he shortly after assumed in the Tower the Crusader's Cross as a measure of personal safety.<sup>5</sup> Six months later, when John bent before the storm and consented at Runnymede to concede the Barons' demands, the name of the Master of the Temple was inscribed in the preamble of the Great Charter as one of the Magnates on whose advice it was expressed to have been granted.<sup>6</sup>

There appears to have been a close friendship between this Master Aymeric de St. Maur and the great Earl of Pembroke, who, after King John's death in 1216, and on the succession of his son Henry III at the age of nine, was chosen by the King's Council "*Rector Regis et Regni.*"<sup>7</sup> Two years later, when the old Earl lay sick at his manor of Caversham, near Reading, whither at his own request he had been borne from the Tower for purer air, he sent for Brother Aymeric to acquaint him with his desire to be received into the Order of the Temple. The story comes from an ancient French chronicle, believed to have been composed from first-hand sources shortly after the Earl's death, as a record for his family,<sup>8</sup> and is so in keeping with the

<sup>1</sup> Walter of Coventry (R.S.), II, 210; Itinerary of King John (Hardy), also Halstead's Kent, IV, 36, 37. John was at Ewell May 7th to 25th.

<sup>2</sup> Close Rolls (Rec. Com.), I, 148: Record of repayment Aug. 22nd, 1213. "*Liberate de Thesaurario nostro Magistro Militie Templi in Anglia IX marcas argenti pro una marca auri quam idem Magister nobis commodavit ad offerendum die quo absoluti fuimus.*"

<sup>3</sup> Wendover (R.S.), II, 113, 114: "*Veniens apud Novum Templum hospitio sese recepit.*" See also Close Rolls (Rec. Com.), I, 182, 183.

<sup>4</sup> Itinerary.

<sup>5</sup> "*Timore potius quam devotione inductus*": Coventry (R.S.), II, 219.

<sup>6</sup> "*Eimerici Magistri Templi in Anglia*"; after the clerical and first of the lay Magnates: see Rymer's *Foedera* (1816), I, 131.

<sup>7</sup> Coventry (R.S.), II, 233.

<sup>8</sup> *L'Histoire de Guillaume le Marechal* (Paul Meyer), Paris (1901); II, 299, 303; III, 257. Also on the value of this metrical chronicle, D.N.B. XXXVI, 232.

habits of the age as to leave little doubt of its truth. The Master hastened to Caversham in response to his friend's summons, where the good Earl, who had himself served in early life as a Crusader, informed him that long ago in the Holy Land he had vowed to give himself one day to the Order of the Temple, and commanding a mantle of the Order (made ready a year before) to be brought from his wardrobe in evidence of his resolution to enter a religious life, bade an affecting farewell to his wife and daughters (who were led weeping from his presence) as one now dead to the world. After words of congratulation and encouragement Brother Aymeric returned to London to make preparations for the Earl's formal reception into the Order, but before this could be done was himself stricken by a mortal illness and died <sup>1</sup> leaving instructions, says the Chronicler, for the burial of his body before the High Altar, that he might rest by the side of Brother William the Marshal, whose fellowship he had loved in this world and hoped to enjoy also in Heaven. The Earl, who thus outlived the Master, died on May 14th, 1219, and after obsequies befitting his great position, conducted first at Reading Abbey, then at Westminster, and finally at the Temple, was laid to rest in the Round Church of the Knights.<sup>2</sup>

It was during the reign of Henry III that the Templars reached the height of their power and privileges in England. When the young King was still a minor under the control of guardians, Alan Martel, the next Master of the Temple, was commissioned with two other envoys in 1224 to treat with Louis VIII of France for a truce to the hostilities then in progress between the two Crowns ; and as the royal letter which accredited him in his mission was subscribed "*teste me ipso apud Novum Templum*," it appears that the young King was himself residing at this time in the Temple.<sup>3</sup> During the following year Martel was again employed in the King's business as negotiator with the Duke of Austria regarding a proposed marriage between

<sup>1</sup> The Victoria History of London (Ecclesiastical) states that Aymeric died abroad, but the authority cited for the statement does not bear it out. It is a letter of Andrew de Celera, Master of the Temple "*citra Mare Græcum*," addressed to Hubert de Burgh Justiciar, naming Alan Martel as chief of the Order in England when Aymeric shall have completed his earthly labours (*temporis hujus labores expleverit*) until the will of the Grand Master is known. This letter is of uncertain date, between Sept. 1217 and April, 1220. It suggests Aymeric was in failing health some time before his death : see Ancient Correspondence (Record Office), Vol. I, 69.

<sup>2</sup> Chron. Maj. (R.S.), III, 43 ; L'Histoire de Guillaume le Marechal, *supra*.

<sup>3</sup> Rymer, I, 270 ; Pat. Rolls, 8 H. III, m. 8<sup>d</sup> : Cal. (1224) 484.



Henry and that Duke's daughter ;<sup>1</sup> but without result. Ten years later, when a Queen was found to share the English throne in the person of Alianore, daughter of Count Raymond of Provence, the Master of the Temple (now Robert de Sanford) was again one of Henry's envoys in the matter, and had the honour, with the Bishops of Ely and Hereford, at the close of the year 1235, of conveying the bride to England.<sup>2</sup> Shortly before this Henry had chosen the Templars' London church as his future place of burial, and by charter bequeathed his body for interment, when he should have gone the way of all flesh, to the Blessed Mary and the House of the Chivalry of the Temple, London ;<sup>3</sup> while by a later charter his young Queen made a like election for her own place of sepulture.<sup>4</sup>

It was no doubt in consequence of this choice that on May 6th, 1237, the King endowed by a perpetual payment to the Master and Brethren of the Temple of £8 sterling per annum, three Chaplains to there celebrate daily three masses, "one for us, one for all Christian People, and one for the faithful departed."<sup>5</sup> These early directions subsequently failed of effect, for the royal pair eventually preferred to rest in the more splendid church which Henry erected over the shrine of the Confessor at Westminster, but William Plantagenet, their fifth son (who died in infancy), is believed to have been buried in the Temple Church.<sup>6</sup> Probably when Henry endowed the three chaplains above mentioned, the Knights had already begun the construction of the beautiful Early English Choir, with its graceful pillars of Purbeck marble, which they added to their Round Church during this reign and which was formally dedicated in the presence of the King and many of the nobles of England on Ascension Day (the 24th of May), 1240.

It is at a time when the building of the choir must have been approaching completion and when Robert de Sanford was still

<sup>1</sup> Rymer, I, 275.

<sup>2</sup> Chron. Maj. (R.S.), III, 335 ; Rymer, I, 344-46. In Rymer the description is merely Brother R. or Robt. This seems to have misled Mr. Addison into assuming the Master at this time was Robert de Montford or Mounford (see Knights Templars, 3rd Edit. p. 293). Matthew Paris gives the name in full. Sanford's name as Master (though not always spelt in the same way) occurs twelve times in the Close, Patent, and Charter Rolls and Fines Calendars, between 1229 and 1248, whereas Montford's name has not been found in any public record.

<sup>3</sup> Monasticon, VI, 818.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.* See also Close Rolls, 21 H. III, m. 23 ; Cal. (1237) 6.

<sup>6</sup> Weever, Funeral Monuments (1631), 443 ; also Sandford's Genealogies (1707), 92.

Master, that a record is found of a royal presentation of plate for the church. Dated Dec. 6th, 1239, it is an order by Henry to his Treasurer, Hugh de Pateshull, to purchase and deliver to the Master of the Temple a silver gilt ciborium for holding the body of the Lord.<sup>1</sup> Mentioning the dedication service six months later, Matthew Paris writes of the church in glowing terms, and adds that after the service was concluded a sumptuous banquet was given in honour of the occasion at the cost of the Hospitallers.<sup>2</sup>

The coloured glass which in modern times has been inserted in the east windows of the choir, contains representations of two of the Masters of the Temple whose names have been mentioned above, Aymeric de St. Maur and Alan Martel. Two other Knights of the Order are also depicted there, Geoffrey FitzStephen who was Master at the time of the dedication of the Round Church, and Robert de Montford.<sup>3</sup> Each is represented armed and mounted, with the beauséant flag at the top of his spear. The figures are small and insignificant and the descriptive lettering difficult to decipher, but such as they are they constitute the sole memorials of Knights of the Temple in the beautiful church which their piety has bequeathed to after generations.<sup>4</sup>

The addition of the choir must have necessitated the removal of the High Altar from the place where it originally stood to the east end of the extended edifice, and there seems to have been a re-interment of some of the persons who had been buried near it. To what places in the church the bodies were removed is not known, and the position of the effigies which still remain

<sup>1</sup> Close Rolls, 24 H. III, m. 19; Cal. (1239) 160. The words are as follows: "Mandatum est H. de Pateshull quod emi faciat quandam Cuppam argenteam deauratam de precio V marcarum et illam liberet Magistro Milicie Templi ad imponendum Corpus Domini: Teste Rege apud Clarendon' VI die Decembris." Bought from Adam de Shoreditch; Lib. Rolls, 24 H. III, m. 20.

<sup>2</sup> "Tempore quoque subeodem dedicata est nobilis ecclesia structuræ expectabilis Novi Templi Londoniarum presente Rege et multis regni magnatibus; qui eodem die scilicet die Ascensionis completis dedicationis sollempniis Convivium in mensa laute nimis sumptibus Hospitaliorum celebrarunt": Chron. Maj. (R.S.), IV, 11.

<sup>3</sup> Mr. Addison's mistake perhaps explains why Robert de Montford is thus commemorated and not Robert de Sanford, who was Master when the choir was dedicated. Apparently the only evidence of Robert de Montford having been Master of the Temple is an inaccurate list of some Masters of the Order in the Cotton MSS. Nero E, VI, 466, which gives his date as 1234 and spells his name Mounford. As to Sanford, see *ante*, p. 21, note 2.

<sup>4</sup> None of the effigies in the church show the dress or commemorate Knights of the Order. Perhaps laymen who had renounced the world set no store by such memorials.

has been changed so frequently that it is not possible to indicate where any of these were originally placed. One of the figures represents William Marshal, Earl of Pembroke, and two of the others, sons who succeeded him in his honours, William the younger, second Earl and husband of the Lady Eleanor, sister of Henry III, and Gilbert the fourth Earl, both of whom were also laid to rest in the church of the Knights.<sup>1</sup> Executed some in stone and some in marble, and once resplendent with gilt and colours after the mediæval manner, the present condition of these effigies—coated with brown varnish—but little suggests their original appearance. They are still, however, of extraordinary interest as contemporary representations of the martial dress of the early part of the thirteenth century.

A remarkable account has been handed down by the Monastic Chronicler, Matthew Paris, of an episode which occurred in the Round Church during this reign, and which closely concerned this distinguished family. In addition to his other lands in England and Normandy, William Marshal, in right of his Pembroke Earldom, had great possessions in Ireland, the bounds of which in a lawless age were probably ill-defined and depended chiefly on what he could hold by force of arms. In the assertion of what he believed to be his just rights the Earl came into collision with an Irish Prelate, Bishop of Ferns, a monk of the Cistercian Order, who claimed as the property of his See two manors of which the Earl had taken possession. Restitution being demanded and refused the Bishop had recourse to spiritual weapons and pronounced against his formidable adversary sentence of excommunication. But without result while the Earl lived, for he treated the sentence with contempt.<sup>2</sup> After his death in 1219, the Bishop decided to appeal in person to Henry, and accordingly, with no little toil, accomplished the journey to London. There he told his tale to the great distress of the young King, who was horrified to think of the friend and protector of his boyhood being detained in the pangs of purgatory through the episcopal anathema. Henry therefore promised the Bishop to see justice done him after he had absolved the deceased, which apparently he agreed to do; but if so the performance belied the promise, for when taken to the Round Church to pronounce the absolution, standing in the King's

<sup>1</sup> Chron. Maj. (R.S.) III, 201; IV, 136.

<sup>2</sup> A munificent benefactor of the Church, both in England and Ireland, there can be no doubt the Earl in this case was satisfied the Bishop's claim had no foundation.

presence before the Earl's tomb and speaking as one living person to another, he addressed the dead as follows :—

“ Oh William, who are here entombed bound by the bonds of excommunication, if those possessions of which you have wrongfully despoiled my church are restored with adequate compensation by the King or by your heir or by any of your family, then I absolve you. But if not, I confirm the sentence that entangled in your sins you may remain in hell for ever.”

Indignant at this repetition of the anathema the King reproached the vindictive Prelate with his immoderate severity, who, thinking no doubt of the wool he might have grown on the lost lands, protested that his Church had been despoiled of her most valuable possession. Thus ended the expected absolution, and the company dispersed leaving the old Earl in his unhappy predicament.

Henry, for the relief of the dead man's soul, next sought by private appeal to induce the Marshal's son and successor to pacify the Bishop by restoring the lands in dispute. But this William the younger would by no means do, asserting that he did not believe, nor was it credible, that his father had taken these lands wrongfully ; that what was acquired in time of war was justly held, and that if this old and crazy Bishop had pronounced his sentence unjustly the malediction would recoil on his own head. For himself he declared he would not diminish the inheritance with which he was invested, for his father had died seised of these lands and upon them as heir he had lawfully entered ; and in this answer all his brothers concurred. Disappointed of his hopes the angry Prelate now resented the contumacy of the sons even more than formerly he had done the injury suffered from their father, and sought relief for his outraged feelings in a prophetic outburst. The old Earl's name he predicted would be blotted out in a single generation, and his sons excluded from the blessing of the Lord, “ Increase and multiply.” Some of them would die lamentable deaths and their inheritance would be scattered. Consequences which he assured the King would come to pass in his lifetime, and while he was still in the flower of his youth ; and with this invocation of retributive justice the Bishop, says the Chronicler, sorrowfully departed whence he had come.<sup>1</sup>

<sup>1</sup> Chron. Maj. (R.S.), IV, 493-95.



Nor did the events which followed belie these predictions. All the five sons of the great Earl, each successively in possession of his honours, died childless and in the prime of life. William the eldest expired suddenly in April, 1231, at the conclusion of the nuptial celebrations of his sister Isabella and the King's brother, Richard of Cornwall—not without suspicion of poison.<sup>1</sup> Richard the second son, "the flower of modern knighthood," succumbed to wounds received in 1234 at the Curragh of Kildare when, deserted by his followers, he single-handed confronted overwhelming odds.<sup>2</sup> Gilbert the third perished in 1241 from the violence of a charger he failed to control during a tournament at Ware;<sup>3</sup> while Walter the fourth died in 1245,<sup>4</sup> and Anselm the youngest at the close of the same year.<sup>5</sup> Thus through the failure of the male line the great inheritance of the Marshals Earls of Pembroke came to be divided amongst the five daughters of the old Earl, and to the husband of Matilda the eldest, Roger Bigod, Earl of Norfolk, passed the office of hereditary Marshal of England.<sup>6</sup>

One other circumstance which the pious Chronicler records with evident satisfaction as proving the power of the Church to punish her rebellious sons even in the grave, must not be omitted. At a later date, when it was deemed necessary to re-inter some of the bodies buried in the Round Church, that of the old Earl, which had been laid to rest sewn up in a bull's hide, no doubt to preserve it from corruption, was found with its covering intact, but nevertheless "*putridum et prout videri potuit detestabile.*"<sup>7</sup>

The records of this reign contain many entries of gifts of wine and venison made by the King to the Knights at the New

<sup>1</sup> Chron. Maj. III, 201.

<sup>2</sup> *Ibid.* 289. "*Militiæ Flos temporum modernorum.*" Of this Earl the Waverley Annalist says: "*Ricardus Marescallus vir omni morum honestate præditus nobilitate generis insignis, artibus liberalibus insignitu eruditus in armorum exercitio strenuissimus in omnibus operibus suis Deum habens præ oculis*": Rolls Series, 313-15: see also Annals of Loch Cé, I, 319.

<sup>3</sup> Chron. Maj. IV, 136.

<sup>4</sup> *Ibid.* 491.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.* 548; and later through the Mowbrays to the Howards, who still retain it.

<sup>7</sup> Chron. Maj. (R.S.), IV, 492-95. It is no slight honour for the Temple Church to be the last resting-place of this remarkable man, one of the greatest figures in mediæval history, conspicuous in an age of feudal faithlessness for the fidelity with which he served five kings. In youth the beau ideal of knightly courtesy and prowess, in later life the redoubtable warrior and sagacious counsellor, he died at last full of years and honours, universally lamented, guardian of the kingdom and protector of the throne.

Temple. Some of these were for special occasions, as when distinguished guests were being entertained or chapters held of special importance.<sup>1</sup> In this Henry was probably only following the practice of his predecessors. Certainly in one case, a gift of nine bucks from the royal forest of Essex in 1232, he seems merely to have continued or revived an annual benefaction of his grandfather, King Henry II.<sup>2</sup> When visits were paid to the New Temple by the Archbishop of Cologne in 1235, and the Archbishop of Embrun in 1243, the Knights were thus honoured by royal gifts of wine, and on the completion and opening of the new choir the Master of the Temple was made the recipient of a like present on December 3rd, 1239.<sup>3</sup>

The guests received at the New Temple were not, however, always regarded with favour by the King's subjects, for they included officers of the Holy See sent to levy exactions from the English clergy for the Papal Court. Henry's notorious weakness in yielding to these demands from time to time greatly embittered popular feeling against him. By the year 1245 the irritation was so acute that the Barons determined to act for themselves. At this time a Papal tax-collector called Martin, but who, on account of his rapacity, was nicknamed by the populace Mastinus<sup>4</sup> (the word for a mastiff), was in residence at the New Temple, and on the morrow of the Feast of the Apostles Peter and Paul, Fulk Fitzwarren, a rough Baron of the Welsh Marches, presented himself fully armed at the Great Gate and demanded an interview with Master Martin; which being granted he ordered, with a scowling countenance, the astonished tax-gatherer to leave England forthwith. Challenged for his authority, he replied that the order came from the armed assembly which had recently met at Luton and Dunstable, and added that if Martin were wise he would not delay three days lest he and his companions should be cut in pieces. Heaping threat on threat with terrible oaths this formidable emissary

<sup>1</sup> See *e.g.* Close Rolls, 19 H. III, m. 11; Cal. (1235) 88, 94; also 20 H. III, m. 12; Cal. (1236) 266; 22 H. III, m. 14; Cal. (1238) 54; 26 H. III, Pt. I, m. 2; Cal. (1242) 426.

<sup>2</sup> "Mandatum est P. Ryvall' quod habere faciat Magistro Milicie Templi in Anglia novem damos in Foresta Essex' quos habere debet singulis annis de dono H. regis avi regis: Teste apud Rading XXVI die Julii": Close Rolls, 16 H. III, m. 6; Cal. (1232) 90.

For the refreshment of the Archbishops the gift was in each case four dolia (hogsheads) of wine. See Close Rolls, 19 H. III, m. 17; Cal. (1235) 55; 24 H. III, m. 19; Cal. (1239) 160; 27 H. III, m. 4; Cal. (1243) 42.

<sup>4</sup> "Magister Martinus quem propter improbam rapacitatem suam multi magistrum Mastinum appellarunt": Chron. Maj. (R.S.), IV, 368.



then departed.<sup>1</sup> Trembling with alarm Martin hurried to Westminster to ascertain whether the sentence of expulsion was supported by royal authority. Henry assured him it was not, but that his people were so incensed that he had difficulty in preventing them from tearing Martin limb from limb. On this the Pope's officer, in a shaking voice, begged a safe conduct out of the country, to which the King, now excited and angry, made answer by bidding him get a safe conduct from the Devil.<sup>2</sup> Persuaded by his attendants to moderate his wrath, Henry at length bade Robert Norris, the Marshal of his palace, conduct Martin safely to the sea-coast. Matthew Paris, who tells the story, concludes his narrative with evident zest, and perhaps some little embellishment, as follows: Martin at once set out keeping all the way close by the side of his guide, and whenever he saw any riders or other passengers on the road was seized with such fear that if the earth had opened he would have hidden himself beneath it. At the edge of a wood, which the Archbishop elect of Canterbury was offering for sale, a number of country people had assembled to choose the trees they wished to buy. The sight of them filled Martin with alarm.

"Alas! alas!" he exclaimed to his guide, "what I feared has happened, they are preparing to attack us. Oh my Lord and friend Robert, have you a son, nephew, relative, or friend for whom you desire an ecclesiastical revenue? I am ready to grant any request you may make. See they lie in wait to take my life, oh protect me under the shadow of your wings."

To this Robert replied:

"God forbid any friend of mine should through me in such a way obtain any ecclesiastical benefice. I know not who they are, but if you will remain here I will hasten to them, and if they are ill-disposed towards you I may check their rashness by showing the King's warrant."

<sup>1</sup> This ferocious Baron is still commemorated in Westminster Abbey, for he was one of the forty benefactors in the rebuilding of their church whose arms the Monks of that foundation blazoned on the aisles of the choir and nave. Many of these interesting memorials have been sacrificed to vandalism and neglect, but the coat of Fulk, renewed apparently in modern times (quarterly per fess indented argent and gules) may still be seen on the south wall of the nave, next the three popinjays (also restored) of that elegant young soldier Robertus de Thwenge.

<sup>2</sup> "Diabolus te ad inferos inducat et per inducat" are the words of the Chronicler.

Having learned the truth Robert returned to Martin, and in order to impose upon him stated that it was with difficulty he had prevented them tearing him to pieces, and advised they should proceed stealthily and cautiously lest a worse thing should befall; adding that Martin when he set sail would be wise not to return in case he fell into the hands of those who sought his life. From this time Master Martin did not spare his horse's flanks, but constantly reproaching his guide with delay hurried to the sea. On reaching Dover he forthwith entered a ship; and by his departure, adds the Chronicler, caused many to rejoice.<sup>1</sup>

Another visitor at the New Temple, whose presence in England has also been commemorated by Matthew Paris, was the Bishop Elect of Toledo, Sanchez, brother of Alphonso X of Castile, and of the beautiful wife of Prince Edward, afterwards famous in English Annals as the good Queen Eleanor. The Bishop, a youth of twenty, arrived in England on September 8th, 1255. He was of luxurious habits, and this provoked the derision of the populace. He ornamented his quarters at the Temple with tapestries, palls, and curtains, spreading some of these even upon the floors, which the hardier Londoners strewed with rushes. He was accompanied by a crowd of attendants and, the Chronicler notes, that while he had only a few palfreys, he had a great many mules. He wore a ring on his finger—though surely that was not uncommon in the case of such an ecclesiastical dignitary—and he was much addicted to giving his blessing to the people, which apparently was resented as presumptuous in a Bishop Elect of twenty; for notwithstanding the King's orders that he and his retinue should be treated with the highest honour, the London mob jibed at and insulted them, taunting them with gluttony and luxury, and this at the very time when his sister as a young bride first arrived in England. The popular prejudices seem to have been shared by the monastic historian, for he finds no words to condemn this sorry exhibition of ill-manners by his countrymen.<sup>2</sup>

Other incidents in the history of the New Temple, which relate more particularly to the financial operations of the Knights,

<sup>1</sup> Chron. Maj. (R.S.), IV, 420, 421. For an English version see *Misrule of Henry III* (W. H. Hutton), 98-100.

<sup>2</sup> In D.N.B. XVII, 178, it is stated that the Princess was lodged at the New Temple with her brother. But this (inherently most improbable) seems to be an error. Matthew Paris only says the house she occupied was luxuriously fitted up like a temple. Chron. Maj. (R.S.), V, 509. See also Rymer, I, 557.

are reserved for separate consideration, but two further events of which the Templars' London House was the scene may be noticed here. It was at the Temple that Simon de Montfort and the other Barons in revolt against the King's misgovernment, assembled the Parliament they held in 1260 to remedy the Royal abuses, while Henry himself was seeking shelter in the Tower.<sup>1</sup> Twelve years later the New Temple was again the scene of a great national council, when on November 21st, 1272, the day following Henry's funeral obsequies, the chief men of the Realm met there, under the leadership of Robert Kilwardby, Archbishop Elect of Canterbury, and Gilbert de Clare, Earl of Gloucester, to take the oath of fealty to the new King, Edward I, then still absent on Crusade, and to make provision for carrying on the government of the kingdom until his return from the Holy Land.<sup>2</sup> It was likewise from the New Temple that two days later the letter of the magnates was despatched, which Edward received on his homeward journey in Sicily informing him of the death of his father and his own succession to the throne.<sup>3</sup>

<sup>1</sup> Monastic Annals (Winton) (R.S.), II, 99. In 1264, when Henry had come to terms with the Barons, Ambesard, then Master of the Temple, was sent with Robert de Ver, Prior of the Hospitallers, as the King's envoy to lay them before the King of France: Pat. Rolls, 48 H. III, m. 6<sup>d</sup>; Cal. (1264) 366.

<sup>2</sup> Trivet's Annals (Edit. 1845), 283; Walsingham's Ypodigma Neustria (R.S.), XII, 166, 167; Riley's Chronicle of Old London, 159.

<sup>3</sup> This missive was in the following terms: "Quod dominus noster dominus H. Rex pater vester die Mercurii in Festo Sancti Edmundi Confessoris in sero, ab hoc seculo suaviter et sanctissime migravit ad Dominum, cujus animæ propitiatur et parcat qui solus potest medicinam præstare post mortem": Rymer, I, 888, 889.

## CHAPTER II

### THE NEW TEMPLE AS A CENTRE OF FINANCE

IMPORTANT as the part was which the Templars played in the political affairs of England it was not so remarkable as their financial activities. The double protection afforded by armed force and ecclesiastical sanctity<sup>1</sup> no doubt made their House a peculiarly safe place for the deposit of treasure, and it may have been on this account that the Bishops of Ely, who were much concerned with the royal Exchequer during the Angevin reigns, had an office there which became known as the Bishop of Ely's Chamber, and is so referred to in an inquisition held after the fall of the Knights. From State records and the evidence of contemporary writers it is clear that not only jewels and other articles of value but large sums of money, the proceeds of royal and Papal taxation, were regularly entrusted to the Treasurer of the New Temple for safe keeping, and thereafter only handed out or otherwise dealt with on the production of mandates from those on whose behalf the deposits had been made. The Patent Rolls abound in records of such mandates. These relate chiefly to the King's business, but there can be no doubt that in multitudes of other private cases of which there is now no record the same thing was going on. Moreover, from a very early date the Crown made use of the services of Templars as royal agents in the collection of monies payable under subsidies granted the King by the Magnates lay and ecclesiastical. Thus in 1188 Henry II appointed Gilbert de Ogrestan, a Brother of the Temple, with others to collect the tenth known as the Saladin Tithe, believed to be the first tax levied upon personal property in England. Unhappily this brother proved a black sheep of the Order, for he embezzled some of the proceeds and was handed over to the Master of the Temple for punishment, who put him in irons "*et diversis pœnis eum afflixit.*"<sup>2</sup>

<sup>1</sup> The privilege of sanctuary was conceded to the Templars' houses by many Papal Bulls and anathema pronounced against all who laid violent hands on any seeking shelter there, or on goods in the Templars' possession: see Rymer, I, 54, 298, 574, 575; also Monasticon, VI, 818.

<sup>2</sup> See Walter of Coventry (R.S.), I, 360.



It is manifest also that the Knights carried on a regular business of foreign exchange and constantly undertook, in consideration of money paid to them at the New Temple, to discharge abroad debts owing to foreign creditors by persons resident in England. Further, the New Temple is frequently named as the place where money borrowed or a debt otherwise arising is to be paid or discharged. The following instances will serve to illustrate the variety and extent of the financial operations with which the Templars were concerned, independently of the transmission of their own revenues for the service of the Holy Land.<sup>1</sup>

On October 8th, 1212, King John directed the officers of his Exchequer to acquit the Master and Brethren of the Temple of 1000 marks (part of a larger sum of 10,000 marks delivered to them for safe custody) which he had received from them to send to his nephew the Emperor,<sup>2</sup> and on January 8th following he wrote to the Emperor informing him that he had ordered the Master of the Temple to pay out the remaining 9000 marks as the Emperor might direct without delay.<sup>3</sup> That other monies had also been paid into the Treasury of the New Temple by the King's command appears from three further orders made about this time. By the first of these, dated June 27th, 1213, the Master was directed to pay to the Earl of Salisbury, John Fitzhugh, and the notorious Falkes de Breauté 20,000 marks, deposited with him for safe keeping by Robert de Vipont, an officer of the royal Treasury.<sup>4</sup> By the second and third, dated respectively January 1st and 4th, 1214, a sum of 6000 marks was ordered to be paid from the Temple Treasury to Pandulph the Papal Legate, and another sum of 1000 marks to the same person, together with Thomas de Erdington and Almeric de Sacy.<sup>5</sup> In the following year John paid to the Master of the Temple 1100 marks, which he had borrowed from the Order to enable him to bring troops to England from Ponthieu.<sup>6</sup>

One of the earliest financial transactions of the next reign

<sup>1</sup> As the extant Patent and Close Rolls do not go further back than the reign of King John, these valuable records afford no information concerning the earlier financial operations of the Knights : see Close Rolls (Rec. Com.), I, Intro. III, IV.

<sup>2</sup> Otto IV, son of John's sister Matilda : Close Rolls (Rec. Com.), I, 124.

<sup>3</sup> Rymer, I, 165.

<sup>4</sup> *Ibid.* 173.

<sup>5</sup> Pat. Rolls (Rec. Com.), Pt. I, 107. This last sum may have been the tribute John had pledged himself to pay annually to the Pope : see Coventry (R.S.), II, 210.

<sup>6</sup> Close Rolls (Rec. Com.), I, 194 (Oxford, April 11th, 1215).



arose out of an agreement made by the young King's advisers with the Dauphin Louis of France, whom the Barons had summoned to their aid in the struggle with King John. It included an undertaking to pay Louis 6000 marks as the price of his leaving England, and this sum it stipulated should be paid at the New Temple, the charter binding Henry to make the payment being meanwhile deposited for safe keeping with the Templars in Paris.<sup>1</sup> In like manner the dower money of King Richard's widow, Queen Berengaria, agreed with John (in negotiations conducted on her behalf by the Templars) at £1000 per annum, was at her request made payable half-yearly at the House of the New Temple, London.<sup>2</sup> In 1221, when 500 marks were required for the King's service at Rochelle, the Templars are again found acting as the royal financial agents.<sup>3</sup> Further, in 1224, when Henry desired to pay 1400 marks to Hugh Count of la Marche at Paris, he did so by depositing that sum with the Knights in London, against the payment of a like amount to the Count in France by Brother W. Kadal, Master of the House of the Temple *Citra Montes*.<sup>4</sup>

In 1225 sums due for carucage from the Bishops of Worcester, Norwich, Ely, and Bath, the Abbot of St. Edmunds, and the Priors of Lewes and Westminster, were paid into the King's Wardrobe (an office of the royal Treasury) at the New Temple.<sup>5</sup> Again, in December, 1229, there is an order to the royal Treasurer and Chamberlain directing them to pay 500 marks to Brother Hugh de Stockton, Treasurer of the Temple, London, to be held by him to the use of (*ad opus*) Ferrand Count of Flanders.<sup>6</sup> In 1231 the Master of the Temple was directed to deliver to a named officer 400 marks which he had received at the house of the New Temple from the Bishop of Norwich to be carried to Wales for the King's service there; <sup>7</sup> while by a later entry of the same year it appears that an aid granted by the Bishops, Abbots, and Priors of the Kingdom of 40s., for each Knight's fee held of the King *in capite*, was made payable at the New Temple, London.<sup>8</sup> In 1232 Henry deposited at the Temple his bond (*vadium*) for the payment of 3000 marks to the Duke

<sup>1</sup> Pat. Rolls, 2 H. III, m. 2; Cal. (1218) 168: Close Rolls (Rec. Com.), I, 415 (1220).

<sup>2</sup> Pat. Rolls, 4 H. III, m. 3; Cal. (1220) 243.

<sup>3</sup> *Ibid.* 5 H. III, m. 2; Cal. (1221) 303.

<sup>4</sup> *Ibid.* 8 H. III, m. 8; Cal. (1224) 439.

<sup>5</sup> *Ibid.* 9 H. III, m. 7; Cal. (1225) 505-7.

<sup>6</sup> Rymer, I, 311; see also Pat. Rolls, 14 H. III, m. 6; Cal. (1230) 322.

<sup>7</sup> Close Rolls, 15 H. III, m. 6; Cal. (1231) 544.

<sup>8</sup> *Ibid.* m. 9<sup>d</sup>; Cal. p. 593.

of Brittany,<sup>1</sup> and acknowledged another obligation of 1200 marks to certain merchants of Florence which, at the value of 13s. 4d. to the mark, was to be discharged by payment on the feast of Michael the Archangel at the New Temple, London.<sup>2</sup>

This was the year in which Henry III dismissed Hubert de Burgh (one of the Guardians of his Minority) from the great office of Justiciar. During his period of power Hubert had amassed considerable treasure which was deposited at the Temple under the care of the Knights. How the King laid his hands on this after the old Justiciar's fall may be told in the quaint language of Stow the antiquary.

"This Temple," he writes, "was often made a storehouse of men's treasure I meane by such as feared the spoile thereof in other places. Mathew Paris<sup>3</sup> noteth that in the year 1232 Hubert de Burgh Earle of Kent beeing prisoner in the Tower of London, the King was enformed that he had much treasure layde up in this New Temple under the custodie of the Templars ; Whereupon hee sent for the Master of the Temple and examined him straightly who confessed that money being delivered unto him and his brethren to be kept he knew not how much there was of it. The King demanded to have the same delivered ; but it was answered that the money being committed unto their trust could not be delivered without the licence of him that committed it to ecclesiastical protection ; whereupon the King sent his Treasurer and Justiciar of the Exchequer unto Hubert to require him to resigne the money wholly into his hands : who answered that he would gladly submit himselfe and all his unto the King's pleasure and thereupon desired the Knights of the Temple (in his behalf) to present all the keyes unto the King to doe his pleasure with the goods which hee had comitted unto them. Then the King commanded the money to be faithfully told and layde up in his Treasure by inventory ; wherein was found (besides ready money) vessels of gold and

<sup>1</sup> Pat. Rolls, 16 H. III, m. 7 ; Cal. (March 10th, 1232) 466.

<sup>2</sup> *Ibid.* m. 7<sup>d</sup>, pp. 514-15. The payment was to be made "*sine aliqua diminutione, dilatione seu cavillatione*"!

<sup>3</sup> Chron. Maj. (R.S.), III, 232, 233 ; see also London Annals, Chron. Edward I and II (R.S.), I, 31.

silver unpraysable and many precious stones which would make all men wonder if they knew the worth of them.”<sup>1</sup>

There does not seem to be any record of the amount of Hubert's accumulations in money, but in the Patent Rolls there is a list of the jewels and other valuables seized by the royal officers. It includes 158 cups besides one “a cup of the egg of a gryphon” stated to be the property of the Earl's wife.<sup>2</sup> That some of the money so seized was left on the King's behalf in the custody of the Knights appears from a subsequent entry acknowledging that the King had received £150 from the Templars—monies of Hubert de Burgh, Earl of Kent.<sup>3</sup> Later, when the protest of the Barons constrained Henry to deal more leniently with the fallen Minister than he had originally intended to do, there is a further entry directing the Treasurer of the Temple to deliver to Hubert de Burgh the charters and muniments of the Earl which the King had committed to his custody in divers boxes under seal.<sup>4</sup>

That money, the proceeds of royal taxation, was paid into the Temple for safe custody appears from other entries in the Patent Rolls about this time. Thus in 1234, by the King's order, £763 13s. of the tallage of the Jews which was deposited at the Temple was directed to be paid out to a named officer; <sup>5</sup> while under the date May 22nd, 1238, there is a record of the £29,000 described as the thirtieth of Nottingham, being delivered by the King's order to the Treasurer of the Temple.<sup>6</sup> In the same month occurs a mandate to the Master of the Temple to deliver 6000 marks of the thirtieth (collected from divers counties) which he has in his keeping to two of the King's clerks to be taken to Paris for the affairs of Richard Earl of Cornwall, the King's brother, then beyond seas, and to cause three or four of the Brethren of the Temple to accompany the said clerks on their journey, no doubt for safe conduct.<sup>7</sup>

<sup>1</sup> Survey (1908), II, 48, 49.

<sup>2</sup> Margaret of Scotland, daughter of William the Lion, afterwards wife of Gilbert Marshal. See also Pat. Rolls, 17 H. III, m. 8; Cal. (1232) 5: Chron. Maj. (R.S.), III, 373.

<sup>3</sup> Pat. Rolls, 17 III, H. m. 9; Cal. 2.

<sup>4</sup> *Ibid.* 19 H. III, m. 19; Cal. (1234) 81.

<sup>5</sup> *Ibid.* 18 H. III, m. 2; Cal. (1234) 75.

<sup>6</sup> *Ibid.* 22 H. III, m. 6; Cal. (1238) 221. A grant of one-thirtieth of movables had been made to the King in 1237.

<sup>7</sup> *Ibid.* m. 5; Cal. (1238) 222. That the Templars acted sometimes as custodians of the royal revenues elsewhere than in their own House, appears also from a record at this time of an order to Brother Hugh de

An entry of 1235 shows the King employing the Templars as his agents to discharge a foreign debt. It records that the King has become bound to pay £200 yearly for five years to the Master and brethren of the Temple in England at the New Temple, London, in consideration of their undertaking to acquit the King yearly at their house in Paris of the said sum against the Count of La Marche for £800 Tournois in which the King is bound to the Count for the Isle of Oleron which the King retains and the Count claimed at the making of the truce with France.<sup>1</sup> This entry further records the securing of these payments to the Knights by charging special revenues for that purpose, and concludes with a statement that the Master and brethren are to carry the money every year for payment to the Count, at the King's peril. This Count was Hugh of Lusignan, the second husband of Henry's mother (Queen Isabella of Angouleme) and the father of Henry's half-brothers, the de Valences (so called from the place of their birth), who were subsequently provided for by him in England. The Templars were also concerned about this time in another payment of money which arose out of Henry's family relations. This was the payment of a sum of 10,000 marks, the balance of 30,000 marks, the marriage portion of his sister Isabella, on her union with the Emperor Frederic II,<sup>2</sup> which Henry, on June 25th, 1235, directed the Master to make to the Emperor out of money in his custody at the New Temple.<sup>3</sup>

In 1241, owing to the energetic policy of Louis IX, Henry found Poitou slipping from his grasp. He accordingly determined to go in person to Gascony. Money was required for this expedition, and the Temple appears to have been one of the centres from which it was financed. Thus in March, 1242, the Sheriff of Lincoln was directed to carry to the Treasurer of the Temple the money collected for the thirtieth in Lindesey, Hoyland, and Kesteven, and the Treasurer to keep the money so delivered to him until the King sent for it to prepare for his crossing, and then to pay out £500 for that purpose.<sup>4</sup> Money in aid of this expedition had been granted by the Abbots and

Stockton and other keepers of the thirtieth in the Tower of London, to pay £500 to the Emperor of Constantinople or his representative: Rymer, I, 380; see also Pat. Rolls, 22 H. III, m. 9; Cal. (1238) 212.

<sup>1</sup> Pat. Rolls, 19 H. III, m. 5; Cal. (1235) 116, 117.

<sup>2</sup> Whose arms as a benefactor of the Church may still be seen in the North Aisle of the choir of Westminster Abbey.

<sup>3</sup> Rymer, I, 373.

<sup>4</sup> Pat. Rolls, 26 H. III, m. 8, m. 7; Cal. (1242) 275, 277.



Priors of the kingdom, and this also was confided to the safe keeping of the Temple Treasurer pending further order.<sup>1</sup> On March 28th there is another mandate to the Treasurer to pay out the £500 above mentioned ; which sum, if he had not yet received the Lincoln thirtieth, he was to take out of the King's other treasure then in his keeping and replace from the thirtieth when received.<sup>2</sup> On April 17th there is an acquittance to the Abbot of Abbendon (Abingdon) in respect of 100 marks promised by him in aid of the King's crossing and paid at the New Temple, London;<sup>3</sup> while on the 25th of the same month there is an order to pay out £193 and 1½ marks of the subsidy of the Prelates in Temple custody to the keeper of the King's Wardrobe to be carried to Portsmouth ; and on May 4th a further payment of £70 is ordered to be made from the Temple to discharge a debt the King owed to Merchants of Gutland.<sup>4</sup> That Henry thought it desirable to equip himself with other valuables besides money is shown by an entry of April 21st of this year, which directed the Treasurer of the Temple to permit four named persons to view the King's jewels deposited with him, and take as many of these as the King had ordered.<sup>5</sup> Henry, whose expedition ended disastrously, no doubt used these jewels to raise further money in his French dominions.

In 1244 Henry directed a payment to be made to the Treasurer of the New Temple of 2000 marks to the credit of his mother-in-law, the Countess of Provence, now a widow and in England ;<sup>6</sup> while an entry in the Patent Rolls for May, 1245, shows that money had also been deposited at the New Temple by the Earl of Pembroke for the use of Simon de Montfort, Ear. of Leicester, and his Countess, a sister of the King.<sup>7</sup> Revenuls derived from Ireland was also confided to Temple custody. For in 1247 there is an order to the Treasurer of the New Temple to deliver the treasure of Ireland which he had received to a named royal officer to do therewith as the King had directed.<sup>8</sup> In March, 1253, when another expedition to Gascony was in view, and Henry's necessities were increasing, the Master and Treasurer of the Temple were directed to deliver the whole of the King's treasure which they had in their custody, as well in

<sup>1</sup> Pat. Rolls, 26 H. III, m. 7 ; Cal. (1242) 277.

<sup>2</sup> *Ibid.* Cal. 278.

<sup>3</sup> *Ibid.* m. 6 ; Cal. 281.

<sup>4</sup> *Ibid.* m. 5, m. 3 ; Cal. 282, 287.

<sup>5</sup> *Ibid.* m. 6 ; Cal. (1242) 281.

<sup>6</sup> Close Rolls, 29 H. III, m. 18 ; Cal. (1244) 270, 274.

<sup>7</sup> Pat. Rolls, 29 H. III, m. 5 ; Cal. (1245) 453.

<sup>8</sup> *Ibid.* 31 H. III, m. 6 ; Cal. (1247) 500.



gold and silver as in other jewels, to certain persons sent to receive it.<sup>1</sup> Compensation which Henry was subsequently constrained to pay for depredations by his ill-controlled troops explains an entry of February, 1254, which states that Alan de Kancia, a Brother of the Temple, was entrusted with £1500 to be taken to Paris for payment to the Count of Toulouse for damage done by the King's men to those of the Count; the said Brother to keep the money safely saving perils of the sea, fire, and greater force of thieves coming upon him.<sup>2</sup> A later entry shows that de Kancia successfully performed his mission. A similar service was rendered by the same Templar in the following May, £1460 being then confided to him to deliver at Paris to the same Count; <sup>3</sup> while in August he delivered for the King's use 4,671 marks at Bordeaux.<sup>4</sup> When later Henry required money for his return journey, and was embarrassed by debts which must first be met, his instructions to the officers of the Exchequer were to send the money to him by Templars, Hospitallers, or other sure messengers.<sup>5</sup>

In 1255 Henry was again making use of the Templars' services to pay off loans obtained from the citizens of Toulouse <sup>6</sup> and the Abbot of Grandselves, a monastery near Toulouse, and to receive back from the Monks jewels he had there deposited by way of security.<sup>7</sup> Further instances of the New Temple being named as the place for repayment of borrowed money are afforded by a loan of 10,000 marks obtained by Queen Eleanor and Prince Edward (afterwards Edward I) from merchants of Florence in June, 1257, and by a second loan of 1000 marks advanced to the Prince by his uncle Boniface, Archbishop of Canterbury. Many other cases might be cited from the Patent Rolls of this reign, showing royal borrowing,

<sup>1</sup> Pat. Rolls, 37 H. III, m. 13; Cal. (1253) 185.

<sup>2</sup> *Ibid.* 38 H. III, m. 4, m. 3; Cal. (1254) 364, 367.

<sup>3</sup> *Ibid.* m. 3; Cal. 369.

<sup>4</sup> *Ibid.* 37 & 38 H. III, Pt. II, m. 9; Cal. 320.

<sup>5</sup> *Ibid.* Peace having been concluded, Henry returned by Paris, where he and his retinue were housed in the Temple, the only residence large enough for the purpose. He there gave a banquet to Louis IX and his nobles, which Matthew Paris describes. The walls of the hall were hung round with the shields of Knights *secundum consuetudinem ultramarinam*. One of the shields was that of Richard Cœur de Lion, which caused a facetious guest to inquire of the King, "Why, my Lord, have you invited the French to feast with you in this House? Behold this shield of the great-souled Richard, King of the English. They will not be able to eat without fearing and trembling" Chron. Maj. (R.S.), V, 480.

<sup>6</sup> Pat. Rolls, 39 H. III, Pt. II, m. 8; Cal. (1255) 412.

<sup>7</sup> *Ibid.* m. 11; Cal. 405.

from foreign merchants in which the King bound himself to repay the money so advanced to him, at the New Temple, London.<sup>1</sup>

Money derived by the King from ecclesiastical benefices was also paid into the New Temple Treasury as appears from a record of 1257, when the Bishopric of Norwich was "void," it being naively added that the King intends to use the issues of Bishoprics and wardships in his hands to pay his debts.<sup>2</sup>

Henry's half-brother, William de Valence, whom he had married to an English heiress, also banked at the Temple, and when, owing to the hostility of the English Baronage, de Valence was compelled to leave the country for a time, his treasure, which was seized at the New Temple, proved, says Matthew Paris, to be of astonishing magnitude.<sup>3</sup> The revenues of his lands were paid in his absence into the Temple Treasury, and a provision of £400 per annum ordered to be paid out of these to his wife.<sup>4</sup> She, however, soon followed her husband abroad; whereupon the Templars were directed to keep the de Valence revenues until further order.<sup>5</sup> The needy King, however, soon began drawing on them for the expenses of the royal household,<sup>6</sup> and to finance his nephew Henry, whose father, Richard of Cornwall, was now titular King of Germany.<sup>7</sup>

One entry (dated May 12th, 1260) is of special interest as disclosing details of a loan transaction with certain merchants of Florence, and showing a set-off of debts which avoided the actual transmission of money in payment. The sum borrowed from the Florentines, 780 marks, was repayable at the New Temple on Whitsunday, 1261, under a penalty of 200 marks, the King further promising to meet all loss, interest, and expenses incurred by the lenders, upon their simple word, and renouncing any privileges of jurisdiction of crusaders, indulgences, letters obtained from the Pope or other privileges. The entry further recites a debt of 550 marks owing to the same merchants by the King of Scotland (Alexander III), the bond for securing which

<sup>1</sup> See *e.g.* Cal. Pat. Rolls as follows: Merchants of Cahors, 1225, m. 5, pp. 523, 524; of Sens, 1232, p. 315; Sienna and Florence, 1253, m. 15<sup>d</sup>, p. 228; 1257, p. 587; 1258, m. 8, p. 631; 1266, m. 6<sup>d</sup>, p. 675; Italians, 1268, p. 277; Florentines, 1259, pp. 11, 12, 16, 17; 1260, m. 10, p. 71.

<sup>2</sup> Pat. Rolls, 41 H. III, m. 5; Cal. (1257) 568. See also Exeter, m. 17, Cal. 605; Winchester, m. 6, Cal. (1259), p. 30; Glastonbury, Close Rolls Cal. m. 24 (1274), p. 143.

<sup>3</sup> Chron. Maj. (R.S.), V, 704.

<sup>4</sup> Pat. Rolls, 43 H. III, m. 15, m. 13; Cal. (1258-59) 3, 4, 9, 12.

<sup>5</sup> *Ibid.* m. 12; Cal. 15.

<sup>6</sup> *Ibid.* 44 H. III, Pt. I, m. 11, m. 10, m. 22; Cal. (1260) 68, 71, 96, 126.

<sup>7</sup> *Ibid.* 43 H. III, m. 9, m. 5; Cal. (1259) 22, 33.

they have surrendered to King Henry (no doubt on his discharging the debt), who will deduct this sum as part payment of money due from him to the King of Scotland as the dower of his daughter Margaret on her marriage to that monarch.<sup>1</sup> It is also recorded that out of this loan there was paid to the same merchants £100 in discharge of a former debt, the bond for which was surrendered and cancelled, and finally that for the said loan the merchants had of the King's gift 80 marks for their grace in lending.<sup>2</sup>

In 1263 an incident occurred which shows that notwithstanding its ecclesiastical character the New Temple was not always to be relied on as a place of safe custody for valuables. Towards the end of May in that year Henry and his Queen took up their residence in the Tower, while Prince Edward sought the hospitality of the Hospitallers at Clerkenwell. The King's misrule had caused the Barons, led by Simon de Montfort, to seize the reins of government. The royal treasury was empty and Henry's credit so low that no one in London, says the Dunstable chronicler, would lend him one halfpenny (*obolatus*). In these circumstances Prince Edward, now in his twenty-fourth year, took the law into his own hands, and setting out with Robert Waleran, the King's Seneschal, and many others, went to the New Temple. Finding the gates closed against him, he obtained admittance by representing that he desired to see the jewels of his mother, the Queen, which were there deposited. But on being taken to the Temple Treasury he and his followers broke open with iron hammers, which they had brought for the purpose, the chests of those who had deposited money there, and abstracted and carried off £1000. Some of this money seems to have belonged to Londoners, for the citizens were so enraged by this violent proceeding that in revenge they attacked the house of John de Grey (one of the Prince's counsellors) outside Ludgate and plundered it, the owner with difficulty escaping from their vengeance across the hollow in which the Fleet stream ran. Moreover, they at the same time sacked the abode of Simon Passelewe, a Minister of the Crown, who had made efforts to raise money for the King.<sup>3</sup>

In 1268 Edward and his brother, with many of the English

<sup>1</sup> This dower seems to have been much overdue, as the marriage had been celebrated in the year 1251.

<sup>2</sup> Pat. Rolls, 44 H. III, Pt. I, m. 10; Cal. (1260) 71.

<sup>3</sup> Monastic Annals (R.S.), III, 222. Several writers, misled by an error in Stow's Survey, have wrongly dated this incident 1283, when Edward was himself on the throne.

nobility, received the Crusaders' Cross from the Pope's Legate, Ottobon, at Northampton, and for the expenses of the Crusade upon which the Prince was about to embark, the King who, since the death of Simon de Montfort at Evesham in 1265, had recovered control of the national affairs, obtained a subsidy of a twentieth, the money arising from which was directed to be paid into the New Temple to await further order.<sup>1</sup> After this there is a long series of entries in the Patent Rolls under different dates, recording payments at the Temple of contributions under this levy by ecclesiastical bodies and other persons, such as the Burgesses of Grimsby and Scarborough, and the Barons of the Port of Rye.<sup>2</sup>

The entries so far noticed deal chiefly with the King's affairs, but there are many others during Henry's long reign showing that private persons also discharged their monetary obligations and deposited deeds and securities at the New Temple.<sup>3</sup> Some of these relate to agreements respecting the purchase of the wardship and the marriage of heirs.<sup>4</sup>

In the reign of Edward I, though the entries are not so numerous, the Templars still appear as custodians of the royal revenues and Bankers to the King. Thus, in 1274, when Edward was in Gascony on his way home from the Holy Land, the Treasurer of the New Temple was directed to deliver £2000 of the money received by him, from the tallage of divers Jews, to be taken to Paris against the King's arrival there; <sup>5</sup> and in the same year Edward repaid at the New Temple two sums of £24,974 and £5330 6s. 8d. (of the coinage of Turenne), which he had borrowed from the Templars for the expenses of his forces in the East, the acknowledgment of these payments being made by the Grand Master, "*Frater Guillelmus de Bello Loco (Beaulieu) Dei gratia Pauperis Militiæ Templi Magister humilis.*" <sup>6</sup> In 1275 there are further mandates for the payment of money directed to the Treasurer of the Temple,<sup>7</sup> and in 1276 there is

<sup>1</sup> Pat. Rolls, 54 H. III, m. 11, m. 8; Cal. (1270) 439, 448.

<sup>2</sup> Cal. Pat. Rolls, 1270, m. 27, pp. 493-94; m. 26, p. 498; 1271, m. 23, p. 508; m. 20, p. 517; m. 19, p. 524; m. 13, p. 542; m. 12, pp. 544, 546-47; m. 5, pp. 570, 572; m. 4, p. 578; m. 3, p. 579; 1272, m. 17, pp. 639-40; m. 12, pp. 682-83; m. 3, p. 710.

<sup>3</sup> *Ibid.* 1259, m. 3, p. 41; 1266, m. 31<sup>d</sup>, p. 656; 1268, m. 19<sup>d</sup>, p. 281; m. 17<sup>a</sup>, p. 283; m. 16<sup>a</sup>, p. 284; m. 8, p. 358; 1269, m. 24<sup>d</sup>, p. 474; 1270, m. 9, p. 446.

<sup>4</sup> *Ibid.* 1221, m. 6, pp. 317, 318; m. 5, p. 321; 1266, m. 5<sup>d</sup>, p. 676.

<sup>5</sup> Pat. Rolls, 2 Ed. I, m. 15; Cal. (1274) 52.

<sup>6</sup> Rymer, II, p. 34.

<sup>7</sup> Pat. Rolls, 3 Ed. I, m. 29 and m. 1; Cal. (1275) 83 and 114.



an order to the King's Treasurer to pay 815 marks 11s. 11*d.* for the expenses of the King's household, and 100 marks for another purpose out of the subsidy of the tenth which had been for two years in his custody at the New Temple.<sup>1</sup> Two other payments of 1000 marks each are also mentioned, which were to meet the cost of works at the Tower of London.<sup>2</sup> Later in the same year the Bishop of Bath and Wells obtained as a loan from the New Temple two sums of £69 17s. 7*d.* and £49 5s. 2½*d.*, issues of the lands which Constance, late wife of Henry de Alemania, held in dower and which were deposited there by the King's order.<sup>3</sup>

In 1286 money collected in England for the Holy Land, and temporarily placed on loan by the Papal Nuncio, was so lent upon the condition (*i.a.*) that it should be repaid at the New Temple. To the close of Edward's reign the Temple was used as a national treasury and the revenues of the kingdom deposited there. Walter de Langton, Bishop of Lichfield and Coventry, and latterly the King's most trusted Minister, was Treasurer of the kingdom when Edward I died at Burgh-on-Sands near Carlisle on July 7th, 1307, and having incurred the enmity of Edward II when Prince of Wales, was arrested near London, while conveying the old King's body to Westminster for burial. The chronicler, Walter of Hemingburgh, tells how the new King thereafter proceeded at once to the Temple with Piers Gaveston, his favourite, broke open the Treasurer's money chests and seized there fifty thousand pounds of silver besides much gold, jewellery, and precious stones.<sup>4</sup>

The charter granted to the Templars by Henry III in 1227, and confirmed by Edward I in 1281, shows the extraordinary privileges they enjoyed in England.<sup>5</sup> By this charter the Order were confirmed in possession of their lands and property of every kind, and given full jurisdiction over their tenants and all persons living on their estates.<sup>6</sup> They and their retainers

<sup>1</sup> Pat. Rolls, 4 Ed. I, m. 23; Cal. (1276) 141.

<sup>2</sup> *Ibid.* m. 25; Cal. p. 140.

<sup>3</sup> *Ibid.* 5 Ed. I, m. 15; Cal. (1277) p. 208. This was the widow of the eldest son of Richard Earl of Cornwall, murdered in the Church of St. Laurence at Viterbo in 1271, by the sons of Simon de Montfort, to avenge the death of their father. His heart, in a golden cup, was placed beside the shrine of the Confessor at Westminster. Dante alludes to this in the *Divina Commedia*.

<sup>4</sup> Chronicle (Edit. 1845), II, 274. The chronicler calls him Bishop of Chester, by which name his See was commonly known: D.N.B. XXXII, p. 129.

<sup>5</sup> *Carta Regis Henrici Tertii de diversis Libertatis et privilegiis Fratibus Militiæ Templi in Anglia per ipsum Concessit*; Monasticon, VI, 844.

<sup>6</sup> As to their tenants' claim to exemption from Spiritual Courts and to



were also made immune from all the burdens ordinarily incident to feudal tenure, such as service in arms, aids, tolls, and like payments; exempted from liability to contribute labour in connection with castles, parks, bridges, etc.; or from supplying transport by land or water or furnishing supplies for victualling castles. It authorized them to cut wood without liability for waste, and even to cultivate land in royal forests, so that in addition to being exempt from paying tithes to the clergy they were free of all those burdens and duties which the rights of feudal superiors imposed on the rest of the community amongst which they resided.<sup>1</sup> These immense privileges were no doubt conceded them in order that their revenues might be preserved intact for the furtherance of the holy cause their possessions had been given them to promote,<sup>2</sup> but as that cause waned in the East and its prospects grew darker, the voice of envy may well have asked why should these things continue to be.<sup>3</sup> It is not surprising that as the Crusading enthusiasm died down, the less fortunate regular clergy, and the Bishops in particular, who resented the presence in their jurisdictions of Churchmen beyond their control, came to regard these military monks with an ever-increasing jealousy and showed little sympathy with them in the hour of their tribulation, now fast approaching.<sup>4</sup>

trial by a special tribunal, see 13 Ed. I, c. 43, and Coke's notes thereon, *Second Institute*, Pt. II, p. 465-66; also as to immunity from local jurisdictions, see *Cal. Fine Rolls*, 1278, m. 18, p. 95.

<sup>1</sup> See *Mandate to the Bailiffs of Canterbury to stop tallaging the Templars' free guests as they are quit of all manner of tallages by the charter of the King and his predecessors*: *Pat. Rolls*, 47 H. III, Pt. I, m. 1, sched.; *Cal.* (1263) 281.

<sup>2</sup> This no doubt was the justification. But probably the charter of the King was not in fact obtained without a handsome payment in money: see *Liberate Rolls*, 12 H. III, m. 3; *Cal.* (1228) 97.

<sup>3</sup> The tenants of the Knights marked their houses with crosses to indicate their right to the privileges of the Order; this led to an abuse, noticed by Coke, as follows: "As the cross was the sign of their profession and their tenants enjoyed great privileges, they did erect crosses upon their houses to the end that those inhabiting them might be known to be the tenants of the Order and thereby be freed from many duties and services others were subject unto and many tenants of other Lords perceiving the state and greatness of the Knights of the said Order, and withal seeing the great privileges their tenants enjoyed, did set up crosses upon their houses as their tenants used to do to prejudice their Lords" (*Second Institute*, Pt. II, p. 432). To stop this abuse, the Statute 13 Ed. I, c. 33, was enacted (1285), prohibiting this being done, under penalty of forfeiture of the land to the Lord Superior or the King.

<sup>4</sup> That their privileges were resented and sometimes violated appears from the Bulls Pope Alexander IV addressed to the English Bishops and clergy, in which he denounced those who laid violent hands on the Templars, or deprived them of their goods, or dared to affront them by contumelious words; vindicated their rights of sanctuary, and confirmed all their ecclesiastical privileges: see Rymer, I, 576-579 and 582.

Meanwhile, this chapter may fittingly conclude with the tribute Sir George Buc, in the reign of James I, paid to the Templars at the height of their power when, writing of that "goodly large and magnificent house" they had reared for themselves by the banks of the Thames, he said :

" And in this their house those Templars lived and continued in great honour and opulency for the space of one hundred years. For they had many fair Lordships and castles and goodly lands and seignories belonging unto them and their Order in many parts of England and the Master of this Order was a Baron of the Kingdom." <sup>1</sup>

The church they built still stands, a triumph of architectural genius, but of that once goodly house how little remains to-day ! <sup>2</sup>

<sup>1</sup> Third Universitie of England, Stow's Annals (Howe's Edit. 1631), p. 1068. Even at the close of the reign of Edward I the Close Rolls records show that the Master of the Temple was regularly summoned to Councils or Parliaments with the other Magnates of the Realm (Cal. Close Rolls, 1295, pp. 445, 449 ; 1296, p. 513 ; 1299, p. 374 ; 1300, p. 409 ; 1302, p. 592). Further gifts still continued to be showered on the Order. As late as April, 1303, licence was granted the Templars to hold lands in mortmain, received from six different grantees (Cal. Pat. Rolls, 1303, p. 134), and in March, 1305, there is another instance of a like grant (*ibid.* p. 322).

<sup>2</sup> A square vaulted chamber at the West end of the modern Inner Temple Hall, with another of like dimensions beneath the first, both strongly built of stone and having walls of great thickness ; the lower one being now used as a wine store.

## CHAPTER III

### FALL OF THE KNIGHTS AND THE ABOLITION OF THE ORDER

THE loss of the Holy Land, which followed the fall of Acre in 1291, profoundly affected the position of the two great military Orders, so long the bulwark of Christianity in the East. For some time prior to this disaster reports of their mutual jealousies and quarrels,<sup>1</sup> which seriously weakened the Christian Arms, had perturbed the Holy See, and successive Popes had entertained the idea of effecting a fusion of the Orders to abate the scandal;<sup>2</sup> but without any definite result. Driven out of Palestine, both had found a refuge in the island of Cyprus, and in June, 1306, a summons was issued by the reigning Pope to their respective chiefs requiring them to attend his Court and give their advice as to inaugurating a new Crusade. The Grand Prior of the Hospital wisely sent excuses and did not come, but James de Molay, who since 1293 had held the office of Grand Master of the Temple, obeyed the summons. Accompanied by sixty Knights of the Order and bringing with him much of its treasure,<sup>3</sup> he landed in France early in the year 1307, and was received with distinction. Though the once great possessions of the Templars in the East were gone they still retained their estates in Western Europe, computed by Matthew Paris even in the middle of the preceding century at 9000 manors or distinct holdings in land,<sup>4</sup> and which now, by added benefactions, must have greatly exceeded that number.

At this time the occupant of the Papal throne was Bertrand de Got, formerly Archbishop of Bordeaux and now known as Pope Clement V. He had moved the Papacy to Avignon, and was a puppet in the hands of the French King, to whose influence

<sup>1</sup> Chron. Maj. (R.S.), IV, 256 ; V, 745, 746.

<sup>2</sup> Gregory X, Nicholas IV, and Boniface VIII.

<sup>3</sup> " Outre l'immense tresor que l'Ordre conservait dans le palais du Temple a Paris. Le chef apporta de l'orient cent cinquante mille florins d'or et un grande quantité de gros turnois d'argent": Raynouard, Monumens Historiques, 17.

<sup>4</sup> Chron. Maj. (R.S.), IV, 291 (1244).

he owed his elevation to the Pontificate. Philip IV, surnamed le Bel, now ruled in France : a Prince whose handsome exterior veiled a nature essentially false and cruel.<sup>1</sup> With revenues depleted by his Flemish Wars, he turned a greedy eye on the wealth of the Templars. Exactly when and how the plot between Philip and his subservient Pope was first hatched<sup>2</sup> has not been disclosed, but it is certain that while still professing publicly the most friendly feelings towards the Order he was secretly planning their destruction.

The Holy Land was lost beyond recovery, and the mission of the Knights seemed to be at an end.<sup>3</sup> They were unpopular with the regular clergy, who envied their wealth and resented their privileges. But they had rendered immense services to the cause of the Cross, and unless more could be alleged against them than their riches and immunities, it would be dangerous to proceed to open violence. Other charges must be found. Moreover, to defame individuals would not be enough ; to justify a seizure of their property all the brethren must be made suspect. Nor was it difficult to do this, for the Templars on one point were peculiarly vulnerable. Alone of all the religious Orders their Chapters and admission rites were secret ; and why secret, it might well be asked, if there was nothing to conceal ? Thus suspicion could easily be instilled into the public mind, and the limits of the human imagination alone set bounds to the charges which might be made.

Philip, in his policy of personal government, had relied upon Ministers who were new men dependent on his royal favour. In one of these, William de Nogaret, whose audacious lying had proved a deadly weapon against Pope Boniface VIII,<sup>4</sup> he now had a willing tool ready to his hand. Such a Minister with rewards to offer has never far to seek for an informer, nor was one lacking in the case of the Knights.<sup>5</sup> Upon allegations

<sup>1</sup> " Habile et profond politique mais despote avide et cruel, sans foi, sans scrupule et sans pitié " : Larousse.

<sup>2</sup> Possibly before and as part of the price of Clement's elevation. It is significant that in his summons to the chiefs of the two Orders he bade them come with small followings.

<sup>3</sup> That it was not so in fact was proved by the subsequent exploits of the Hospitalers, who, escaping the destruction which befell the Templars, rendered invaluable service to Christendom by holding the Turks at bay for more than two centuries in the Eastern Mediterranean.

<sup>4</sup> Lavissee, *Hist. de France* (1901), III, 163.

<sup>5</sup> Dupuy gives the informers as the Prior of Montfauçon, condemned by the Grand Master for his evil life, and Nosso Deghi, a Florentine under sentence by the Provost of Paris (*Condamnation des Templiers* (Edit. 1713), I, 8). But this is now doubtful, for the latest research suggests that Esquin de Florian



secretly made, charges were drawn up imputing to the Templars infidelity, idolatry, heresy, and the most detestable vice. Proof presented no difficulties, for France was at this time under the Inquisition, and, heresy being charged, the expert hands of the Inquisitors could be relied on to force by torture confessions sufficient to establish guilt. Moreover, the Chief Inquisitor was Philip's private Confessor, so that in the seclusion of the royal palace all the plans could be secretly matured for bringing to bear upon the doomed Brethren the combined forces of Church and State. The events which followed have been truly called "the great crime of the Middle Ages."<sup>1</sup>

Mysterious rumours were first set in circulation defaming the Order. Some of these reached the ears of the Grand Master, who at an interview with Pope Clement denounced them as false and asked for a public inquiry. No inquiry was granted, but Molay seems to have been satisfied that the rumours found no credence with the Holy Father. Philip treated him with a like duplicity, for it was essential the secret of his plot should be carefully guarded till the time was ripe for action. Three years before, in conferring fresh privileges on the Order, he had proclaimed the esteem in which he held them, eulogizing their works of piety and charity, and their magnificent liberality in all times and places,<sup>2</sup> and his outward demeanour gave no indication of the deadly intentions he harboured towards them. Thus no steps were taken by the unsuspecting victims to meet the impending blow. On October 12th, 1307, the Grand Master was honoured with the place of pall bearer beside the King at the obsequies in Paris of the Comtesse de Valois. The very next day the storm burst. Pursuant to royal orders secretly issued a month before, Molay and all the officers and members of the Order who could be found in France were seized and imprisoned, and all their property taken into the King's hand.<sup>3</sup> Thus the empty coffers of Philip were at once replenished with the immense treasure stored in the Temple at Paris. On the 14th the arrests were followed by a proclamation which set forth the alleged crimes of the Templars, charging the whole Order with idolatry,

was the chief informer, and that money was his object and reward (see Finke, "Papsttum und untergang des Templerordens" (1907), II, 83, No. 57).

<sup>1</sup> Lea, *Inquisition in the Middle Ages*, III, 238.

<sup>2</sup> Raynouard, "*Monumens Historiques*," citing *Tresor de Chartres*: "*Opera pietatis et misericordias magnifica plenitudo quæ in sancta domo militiæ Templi ab olim divinitus instituta longe lateque per orbem terrarum jugiter exercentur*," etc.

<sup>3</sup> Dupuy, *Condamnation des Templiers* (1713), I, 9.



denying Christ, and spitting on the Cross at initiation, and habitual immorality of the vilest description; while further instruction in their depravity was imparted to the populace assembled for the purpose in the gardens of the royal palace. So certain was Philip of the Pope's complicity that in these proceedings he had not even waited for Clement's authority to act.

The course adopted to secure confessions throws a curious light on the insincerity of these charges. Had they been true no punishment in that age would have been too severe for the offenders. Yet those deputed to examine the accused were directed to inform them that if they confessed and admitted their guilt they would be pardoned and reconciled with Holy Mother Church; otherwise they would be put to death.<sup>1</sup> From the King's agents the prisoners were rapidly passed on to the merciless hands of the officers of the Inquisition, who forthwith set about the task of forcing admissions of guilt. Stimulated by their knowledge of the King's wishes and the lurid accounts which had been circulated of the enormity of the Templars' wickedness,<sup>2</sup> these exponents of ecclesiastical law soon had all the devices of the torture chamber in full operation. The natural result followed: helpless in the hands of their tormentors, the wretched victims confessed wholesale.<sup>3</sup> But the death of thirty-six in Paris and many more in other parts of France while under examination<sup>4</sup> proves alike the violence of the means employed to procure those confessions and their worthlessness as evidence when obtained. Nevertheless, they were hailed by Philip as a complete vindication of his attack upon the Order, and trumpeted abroad with the added lie that they had been freely and spontaneously made.

Edward II, who had recently ascended the English throne, was at this time affianced to the daughter of the French King,<sup>5</sup> and Philip's next step was to send a confidential clerk (Bernard Peletin) to the English Court to expose the wickedness of the Templars, and urge the same action against them in England as had already been taken in France. At the English Court the

<sup>1</sup> Dupuy, II, 319; Instructions for those interrogating the Templars.

<sup>2</sup> *Ibid.* 309-315.

<sup>3</sup> Of one hundred and thirty-eight Templars examined in Paris between October 19th and November 24th, 1307, only three did not confess at least some of the crimes charged against them: Lea, III, 262.

<sup>4</sup> Michelet, *Procès des Templiers*, I, 56, 69.

<sup>5</sup> The marriage was celebrated at Boulogne with great pomp in January, 1307/8: *Hist. Anglicana (R.S.)*, I, 121.

Order were still held in the highest esteem, for no one there yet doubted their devotion to the Catholic Faith. Accordingly, the astonishing tale of the French clerk was heard with amazement, and on October 30th, 1307, Edward replied to King Philip that to himself, his Prelates, Earls, Barons, and others of his Council the charges appeared incredible; <sup>1</sup> that hitherto they had heard nothing of them; but that he would send for his Steward from Agen, whence they were said to have emanated, in order that he might be further informed. Five weeks later, being still of the same mind, he wrote letters to the Kings of Portugal, Castile, Sicily, and Aragon with reference to these accusations of Peletin (of whom he spoke contemptuously), reminding those Princes of the great reputation of the Order of the Temple for religious devotion and probity, <sup>2</sup> and their conspicuous services to the Faith, and urging them to turn a deaf ear to the slanderers of the Knights actuated, as he believed them to be, by no zeal for righteousness, but by the evil spirits of cupidity and envy, <sup>3</sup> and to permit no injury to be done to the Brethren or their property until the crimes charged against them were lawfully established. Further, ignorant of the Pope's complicity, King Edward also wrote to Clement on behalf of the accused, <sup>4</sup> expressing his amazement and horror at the terrible nature of the charges inspired, as he suggested, by envious and evil-disposed persons who turned the good deeds of the Order to works of perversity, and which he was unable to credit because the Master and Brethren of the Temple, constant in the purity of the Catholic Faith, were greatly esteemed by him and all his kingdom in living as well as morals. <sup>5</sup>

Meanwhile, however, Clement had decided to intervene himself in England, and, on November 22nd, had addressed to Edward from Poitiers, where he appears to have been in conference with the French King, one of those mendacious Bulls with which he now sought to poison the mind of Christendom. <sup>6</sup> In this document (*Pro Capcione Templariorum*), after reciting the crimes of the Templars, their arrests in France, and the

<sup>1</sup> Rymer, III, 18: "Ultra quam credi potest."

<sup>2</sup> *Ibid.* 35: "Qui religione et honestate præclarus."

<sup>3</sup> *Ibid.* 36: "Qui ut credimus non zelo rectitudinis sed cupiditatis et invidiæ spiritibus excitantur."

<sup>4</sup> *Ibid.* 37

<sup>5</sup> "Et quia prædicti Magister et Fratres in Fidei Catholicæ puritate constantes a nobis et ab omnibus de regno nostro tam vita quam moribus habentur multipliciter commendati non possumus hujusmodi suspectis relatibus dare fidem": *Ibid.*

<sup>6</sup> *Ibid.* 30.

seizure of their property by Philip, which he alleged had been done for its safe custody and the benefit of the Holy Land, he proceeded to state that the Master of the Order had since publicly and spontaneously confessed <sup>1</sup> that the denial of Christ at the instigation of Satan had been made part of their ceremony of initiation, and that many other Brethren of the Temple in different parts of France had also confessed the wickedness charged against them, doing unfeigned penance therefor. Further, he alleged that he himself had examined a Knight of the Order of high birth and authority, who had spontaneously and fully confessed the crime of denying Jesus Christ on admission, and had been present at a Chapter in the Kingdom of Cyprus when a certain nobleman at his initiation by the Master's command committed this very wickedness in the presence of two hundred members of the Order, of whom about one hundred were Knights. His Holiness accordingly exhorted King Edward with caution and secrecy in one day to arrest all the Templars in his Kingdom and take their property into safe custody.<sup>2</sup>

Although it is clear there was no belief in the charges at the English Court, on receiving this further communication, Edward yielded. Perhaps in that age even a strong Ruler, if a professed son of the Church, could hardly have done otherwise, for, as has been aptly said, "When the Vicar of Christ himself entered the witness box scepticism was silenced."<sup>3</sup> A general ordinance was drawn up for the arrest of the Templars and the seizure of their property on the Wednesday following the Feast of the Epiphany (January 6th), and on December 20th sealed writs were dispatched by sworn clerks to the Sheriffs throughout England directing them to give effect to this ordinance in their respective jurisdictions; these Clerks being instructed to take an oath from the Sheriffs before the writs were opened not to

<sup>1</sup> In view of Clement's subsequent exhortations to employ torture in England it is not credible that he did not know how the confessions were obtained in France. Nor can it be doubted that he was well aware of the usual practice of the Inquisition to compel its victims under the threat of a return to the torture chamber if they spoke otherwise, to state when publicly repeating their confessions of guilt that they did so freely and spontaneously.

<sup>2</sup> Rymer, III, 31. The alleged Knight of high birth was probably one of Nogaret's informers. Mystery surrounds the confession of the Grand Master. Whether obtained by torture or threats or some specious promise will never be known. But that it was neither true nor spontaneous is beyond doubt, seeing that he afterwards endured a cruel death rather than abide by it. That a brave man to escape from intolerable agony would confess crimes he had never committed is probable enough; but it is contrary to human nature itself to retract the truth for the pleasure of being burnt alive.

<sup>3</sup> Sir J. H. Ramsay, *Genesis of Lancaster*, I, 20.

reveal their contents till they were executed. Similar orders were likewise sent to the Justices of North and South Wales and Chester, to John de Britannia, Earl of Richmond, at this time Keeper of Scotland, and to the Justiciary of Ireland.<sup>1</sup>

Edward's high opinion of the Order is reflected in the course the proceedings at first took in England, where the treatment meted out to the accused was very different from the atrocities perpetrated upon them in France. Thus the royal orders, while including a direction that the Templars were to be guarded in a fitting place other than their own houses, expressly stated that they were not to be confined in a hard or vile prison.<sup>2</sup> In England the King's writs were executed on January 9th, 10th, and 11th, 1307/8.<sup>3</sup>

The gentler methods adopted by Edward are further illustrated by what befell William de la More, the Grand Preceptor or Master of the Temple. Arrested on January 9th at the New Temple with Himbert Blanke, the veteran Preceptor of Auvergne (then on a visit to England), he was sent with his guest and four other members of the Order, attended by two clerks, five esquires, and four household servants, to the Castle at Canterbury.<sup>4</sup> On February 17th the Sheriff of Kent was ordered to allow him to choose two of the Brethren to remain with him and to return the others in custody to London. At the same time an allowance was made for his maintenance, 2s. a day for himself and his household, and 4d. per day for each of the other Brethren; sums which were shortly after increased to 2s. 6d. and 6d. respectively.<sup>5</sup> On March 14th came a further order to the Sheriff to release the Master and his two companions from close custody (*arca custodia*) and for better air and comfort to permit them to walk within the castle and even without (during the daytime) in parts adjoining the City accompanied by an officer of the Sheriff's choosing. Further, the use of certain silver vessels and other chattels which had been seized was

<sup>1</sup> Close Rolls, 1 Ed. II, m. 13, m. 13<sup>d</sup>; and Cal. (1307) 13, 14, 48, 49; Rymer, III, 34, 45.

<sup>2</sup> "Et quod corpora dictorum Templariorum salvo secure et honeste custodiantur in loco competenti alibi quam in locis suis propriis; ita quod eorum custodes securi sint de corporibus eorundem fratrum; dum tamen non sint in dura et vile prisiona donec Rex aliud inde duxerit ordinandum": Rymer, III, 35.

<sup>3</sup> L.T.R. Enrolled Accts. Misc. Rolls, No. 18, 19, 20.

<sup>4</sup> *Ibid.* No. 18, m. i.

<sup>5</sup> Exch. L.T.R. Mem. Roll, No. 78, 1 Ed. II, m. 81; Exch. K.R. Mem. Roll, No. 81, 1 Ed. II, m. 43<sup>d</sup>.



restored to him and their robes and beds given to his companions.<sup>1</sup> Ten weeks later he was liberated (May 27th), Antony Bek, Bishop of Durham, having become his surety;<sup>2</sup> and on June 4th, King Edward granted his dear Brother in God William de la More the choice of three members of his Order to attend upon him, two of whom were to be Knights.<sup>3</sup> From a further record it appears that on July 26th Michael de Baskervill and John de Stoke, Preceptor and Treasurer of the New Temple, were delivered to More under the King's writ with his horse and harness.<sup>4</sup> The intervention of the Bishop of Durham in the Master's behalf is of special significance as reflecting the disbelief in the Papal charges which prevailed in the highest quarters. Named by Clement in 1305 titular Patriarch of Jerusalem,<sup>5</sup> and by virtue of his Palatine jurisdiction a belted Earl as well as a Bishop, Antony Bek in power and wealth was at this time the greatest Lord in England. Maintaining the state of a Prince rather than a Churchman, and with one hundred and forty Knights in his train, he appeared to be more the ally than the subject of the Crown.<sup>6</sup> Meanwhile the other Templars had been allowed money for their support at the rate of 4*d.* per day each, and seem on the whole to have been treated with indulgence.<sup>7</sup>

In August, 1308, came another Papal Bull (*Faciens Miscericordiam*) repeating much that had been alleged in Clement's former missive to the King but addressed to Winchelsea, Archbishop of Canterbury, and his suffragans.<sup>8</sup> In this Bull the Pope declared that at the very commencement of his Pontificate reports had confidentially reached him that the Grand Master, Preceptors, and Brethren of the Order of the Temple had lapsed into the unspeakable sin of apostasy, the detestable vice of idolatry, the execrable crime of sodomy, and many heresies: that his dearest son in Christ, Philip, the illustrious King of the French, had also heard these things, and that the guilt of the Templars had been proved by many confessions, attestations, and depositions of the said Grand Master and many Preceptors and Brethren of the Order in France. That before three Cardinals

<sup>1</sup> Exch. L.T.R. Mem. Roll No. 78; 1 Ed. II, m. 81.

<sup>2</sup> Exch. L.T.R. Enrolled Accts. Misc. Roll No. 18; 1 Ed. II, m. 1; Close Rolls, 1 Ed. II, m. 4: Rymer, III, 83.

<sup>3</sup> Exch. K.R. Mem. Roll No. 81; 1 Ed. II, m. 31*d.*

<sup>4</sup> Exch. L.T.R. Enrolled Accts. Misc. Roll No. 20; 1 Ed. II, m. 3.

<sup>5</sup> Cal. Papal Register (Papal Letters), II, 5.

<sup>6</sup> Robertus de Graystane's Hist. Dunelm. Surtees Socy. (1839), p. 64.

<sup>7</sup> Close Rolls, 2 Ed. II, m. 15; 3 Ed. II, m. 15; Cal. (1308-1309) 90, 189.

<sup>8</sup> Monasticon, VI, 844-846; Rymer, III, 101-103.



deputed by himself to inquire and ascertain the truth, the Grand Master and many Preceptors being sworn had deposed and confessed freely and spontaneously without compulsion or fear that on reception into the Order they had denied Christ, spitting upon the Cross; that some had also admitted that with the same denial and spitting they had received others; <sup>1</sup> that certain Brethren had confessed other things horrible and indecent regarding which shame kept him silent; and that on bended knees, with clasped hands, humbly and earnestly and with many tears, they had begged for absolution.<sup>2</sup> He accordingly directed the Archbishop and Bishops to institute inquiries in England through the Provincial Councils, and in particular to examine the Templars there upon certain articles of accusation transmitted with the Bull, and named two Inquisitors, Deodatus, Abbot of Lagny, and Sicarde de Vaur, Canon of Narbonne, whom he was sending to conduct the examinations, and whom he required the English Bishops to assist. Clement had no doubt heard of the letters King Edward had dispatched to Portugal, Castile, Sicily, and Aragon, for in this Bull he further alleged that King Philip had not acted against the Templars from avarice, not intending to take any of their property for himself, and having wholly removed his hand from it, but following in the illustrious footsteps of his progenitors, from zeal for the Orthodox Faith.<sup>3</sup>

There was, however, much delay in the subsequent proceedings, for more than a year elapsed before the Papal Inquisitors arrived in England. With their advent the treatment of the accused, many of whom appear at this time to have been at large on parole, became more rigorous. On September 13th, 1309, King Edward had issued a safe conduct for the Inquisitors.<sup>4</sup> On the following day writs were sent to the English Sheriffs

<sup>1</sup> "Libere ac sponte absque coactione qualibet et terrore deposuerunt, et confessi fuerunt, inter cætera, Christi Abnegationem, et spuitionem super Crucem, cum in ordine Templi recepti fuerunt. Et quidam ex eis, se sub eadem forma, scilicet cum abnegatione Christi et spuitione super Crucem, Fratres multos recepissee. Sunt etiam quidam ex eis, quædam alia horribilia et inhonesta confessi, quæ ut eorum ad præsens parcamus verecundiæ, subticemus," etc.: *Monasticon*, VI, 845.

<sup>2</sup> "Absolutionem flexis genibus manibusque complexis humiliter et devote, ac cum lacrimarum effusione non modica petierunt": *Ibid.*

<sup>3</sup> "Non typo avariciæ, cum de bonis Templariorum nichil sibi vindicare vel appropriare intendat; immo ea per deputandos a nobis generaliter, et per Prelatos Regni Franciæ, specialiter, in suis diocesisibus administranda, in Regno suo, dimisit; manum suam, et inde totaliter amovendo; sed fidei orthodoxæ fervore suorum progenitorum vestigia clara sequens," etc.: *Ibid.*

<sup>4</sup> *Fœdera*, II, 88; *Pat. Rolls*, 3 Ed. II, m. 34; *Cal.* (1309) 190.

ordering them to arrest all the Templars within their bailiwicks and transmit them, together with those already in custody, without delay to York, Lincoln, and London; while on the same date instructions were sent to the Constables of the Castles of York and Lincoln, and to the Constable of the Tower, to receive the prisoners so committed to their custody and keep them safely and produce them for the Inquisitors to inquire of them.<sup>1</sup> Thus the Templars for the purpose of examination by the Papal officers were segregated at York for the Northern Province and at Lincoln and London for that of Canterbury.<sup>2</sup>

The articles of accusation sent by the Pope numbered eighty-seven. They dealt (*i.a.*) with the alleged denial of Christ and spitting on the Cross at initiation; alleged acts of indecency between the Preceptors and novitiates; the wearing of cords or belts consecrated to idolatry; alleged acts of immorality; the worshipping of idols (including a cat) in their Chapters; disbelief in the Sacraments of the altar and absolution from sin by the Master and Preceptors, being laymen only.<sup>3</sup>

The examination of the accused on these articles began in London towards the close of October, 1309, and in the course of a month more than forty members of the Order were sworn and interrogated separately with great minuteness. Among these deponents were Brother Himbert Blanke, Preceptor of Auvergne, and Ralph de Barton, a Priest of the Order, who was Prior of the New Temple.<sup>4</sup> No evidence was obtained, however, in proof of the Papal allegations. All the members, Knights, Priests, and Serving Brothers, alike denied the charges and protested their innocence. More significant perhaps than these denials was the conduct of certain Knights, recent recruits of the Order, who, on being admonished and repeatedly urged to abandon it, each separately answered they would sooner die than do so.<sup>5</sup> A truly astonishing constancy if the Templars were steeped in iniquity as King Philip and the Pope alleged. As yet there had been no employment of torture in England.

Baffled in their search for proofs of guilt, the Inquisitors at the close of November laid the evidence so far obtained before the Bishops of the Southern Council at Lambeth, and demanded

<sup>1</sup> *Fœdera*, II, 90, 91 : *Close Rolls*, 3 Ed. II, m. 21 ; *Cal.* (1309) 175-177.

<sup>2</sup> *Close Rolls*, 3 Ed. II, m. 21<sup>a</sup> ; *Cal.* (1309) 230 : *Fœdera*, II, 88.

<sup>3</sup> *Monasticon*, VI, 846, 847 ; *Concilia*, II, 331, 332.

<sup>4</sup> *Concilia*, II, 334-345.

<sup>5</sup> "Memo. Quod frater Philippus de Mews, Thomas de Barton et Thomas de Staundon fuerunt moniti et multipliciter exhortati ut exirent e dicta religione qui responderunt singillatim quod sitius vellent mori" : *Ibid.* 344.

permission to proceed *secundum legem ecclesiasticam* and make use of torture.<sup>1</sup> The position was a serious one. The Pope had pledged his Apostolic word that the prisoners were guilty, and evidence was still lacking to justify the charges of the Holy Father. The Bishops, who were no doubt anxious to earn the good opinion of Clement, expressed their concurrence, but the prisoners were in the keeping of the King's officers, and nothing could be done to their bodies without royal sanction. Accordingly the Prelates and Inquisitors waited upon the King and petitioned him for leave to proceed *secundum constitutiones ecclesiasticas*, and that his officers might be ordered to give their assistance. Edward consented, and on December 15th instructions were issued to those having the custody of the Brethren to allow and assist the Prelates and Inquisitors to do as they wished with the bodies of the Templars according to ecclesiastical law.<sup>2</sup> The Pope's emissaries, however, encountered an unexpected obstacle in the attitude of the Templars' gaolers. To the honour of English Justice torture at this time formed no part of its criminal procedure, and the royal officers seem to have had little stomach for the business, for notwithstanding the appointment of a special official, William de Diene,<sup>3</sup> to supervise its application, the King's orders had to be repeated and the prisoners eventually removed to other custody.

Meanwhile, late in January, 1310, the Inquisitors commenced a further examination of the London prisoners on twenty-four new interrogatories.<sup>4</sup> On this occasion thirty-four members of the Order were sworn and closely questioned, but again with no material result, for all still denied the charges and protested their innocence. On March 1st and 8th further orders were issued to the Constable of the Tower and all the King's officers having custody of the Templars, which again enjoined them to assist the Prelates and Papal Inquisitors in applying torture to the accused and to keep them in solitary confinement.<sup>5</sup> There were further examinations of thirty-one of the Brethren in March, and of thirty-six in the following June,<sup>6</sup> when special

<sup>1</sup> Concilia, II, 313.

<sup>2</sup> *Ibid.* 314; Fœdera, II, 100; Pat. Rolls, 3 Ed. II, m. 25; Cal. (1309) 203.

<sup>3</sup> February 8th, 1310; see Pat. Rolls, 3 Ed. II, m. 20; Cal. (1310) 201; Fœdera, II, 104.

<sup>4</sup> Concilia, II, 349-352.

<sup>5</sup> Pat. Rolls, 3 Ed. II, m. 17; Cal. (1311) 213; see also m. 11 and 9; Cal. 196, 200; Fœdera, II, 104.

<sup>6</sup> Concilia, II, 352-358.

attention was paid to the alleged absolution from sin by the Master and Preceptors in chapter. These, however, still failed to supply the missing proofs, and examinations at Lincoln and York also produced no material result.

The Inquisitors had worked hard, but the only fruit of their labours had been to show that some of the Brethren had confused notions as to the power of the Master in the matter of absolution, and they were now convinced that only by torture, as it was used in France, could the case be established against the accused. Accordingly, in June, 1310, they delivered a protest to Archbishop<sup>1</sup> Winchelsea complaining that so long as the Templars were in the custody of royal officers nothing could be made of them, and suggesting various expedients for forcing admissions of guilt. These included (*i.a.*) the following: The removal of the prisoners from the control of the King's officers so that torture could be more secretly applied to them; stopping the food supplied to them and substituting a diet of water and bread only, given on alternate days; the publication in England of confessions secured in France to excite public feeling against the Order, so that torture could be effectively applied without causing public outcry (*sine scandalo populi*); the removal of all the English Templars to Ponthieu, where, though still in King Edward's dominions, they would be under the Inquisition, and could be subjected to the full rigour of ecclesiastical law. To their shame all the Southern Bishops appear to have highly approved this last alternative.<sup>2</sup>

These suggestions of the Pope's officers were no doubt communicated by Winchelsea to King Edward, for while he did not sanction the removal of the prisoners to Ponthieu, he yielded so far as to sanction a change in their keepers. Thus, on August 26th, 1310, instructions were issued by the King from Beverley to the Constable of the Tower to deliver the Templars in his keeping to the Sheriffs of London when requested so to do by the Prelates and Inquisitors appointed to inquire against them, and at the same time to the Sheriffs to receive the Templars so delivered to them, guard them by keepers of the Inquisitors' choosing, and permit the Inquisitors to do

<sup>1</sup> See "Inquisitio de gubernatione militum Templi in Anglia": Cotton MS. Julius B. XII, fo. 80.

<sup>2</sup> *Ibid.* "Sexta via est quam multum amplectuntur omnes Prelati quod mitterentur in Pontivum qui est terra Regis Anglie vel alibi extra Angliam, et quod ibi questionarentur." Probably the English Bishops did not appreciate the appalling nature of the tortures to which they thus favoured consigning these unhappy men.



what they pleased with their bodies according to ecclesiastical law.<sup>1</sup>

The Southern Council reassembled on September 21st, 1310, when the evidence so far taken was read over and published. Whereupon it is recorded great disputes arose on account of various alterations found to have been made in the depositions of the witnesses.<sup>2</sup> A highly suggestive entry having regard to the fact that the only reports of these proceedings against the Order come from the hands of their enemies. Though the Southern Bishops had been willing to send the accused to France they apparently feared the effect upon the people of allowing unrestricted torture in England, for although the royal officers were no longer in the way, they resolved that after a period of severer treatment, including solitary and closer confinement, the Templars should be again interrogated to see whether when thus shaken they would not admit the accusations; and that if this failed torture should then be applied, but *not so as to permanently mutilate any limb or cause violent effusion of blood.*<sup>3</sup>

Meanwhile at York, where the Pope's Bull charging the Templars with apostasy, idolatry, sodomy, and various forms of heresy had been heard with astonishment, Archbishop Greenfield and his suffragans of the Northern Province appear to have much debated the question of employing torture. Walter of Hemingburgh, a valuable contemporary authority, has left an account of their deliberations.<sup>4</sup> They said that in the Realm of England torture had never been seen or heard of, and they doubted who should apply it, whether clerical or lay hands. If no one in the Realm was proficient in its use must they import skilled torturers from abroad? If they failed to do so would negligence be laid to their charge? They found these questions so embarrassing that, without coming to any conclusion upon them, they resolved to send the unsatisfactory evidence already obtained to the General Council the Pope had summoned to meet at Vienne, and to await thereafter his further directions. It is manifest they had little belief in the truth of the charges, and were more averse than the Southern Bishops

<sup>1</sup> Close Rolls, 4 Ed. II, m. 22; Cal. (1310) 279; Rymer, III, 224, 225; Fœdera, II, 115.

<sup>2</sup> "Super quibus omnibus magnæ disputationes fiebant propter varias mutationes inventas in inquisitionibus et depositionibus prædictis": Concilia, II, 314.

<sup>3</sup> "Ita quod questiones illæ fierent absque debilitatione perpetua alicujus membri et sine violentia sanguinis effusione": *Ibid.*

Chronicon (Edit. 1849), II, 287-291.



to degrading English justice by the employment of torture. Eventually they disposed of the whole matter on the footing of the compromise later arrived at in London, and torture does not seem to have been used in the Province of York.

King Edward, who with his favourite Gaveston had set out in September, 1310, to invade Scotland, now issued further orders in aid, no doubt, of the severer prison treatment the Southern Council had decided upon. These orders, sent from Biggar on October 6th and from Linlithgow on October 23rd, directed the Constable of the Tower to deliver up the Templars in his keeping to the London Sheriffs when the Prelates and Inquisitors so desired, and to receive them back when the Inquisitors had done with them; while the Sheriffs were commanded as before to keep safely the Templars committed to their custody, and permit the Inquisitors to do what they willed with their bodies.<sup>1</sup>

When handed over to the Sheriffs the accused were now confined in the prisons attached to the City Gates, Aldgate, Cripplegate, Newgate, and Ludgate, where it seems the sterner treatment now resolved upon was put in operation.<sup>2</sup> It was possibly in view of the citizens resenting their prisons being so used that King Edward, when informing the Mayor and Aldermen of the orders he had thus given, stated that he had allowed the proceedings against the Templars from reverence for the Holy See.<sup>3</sup> At the same time he required the citizens to provide, if necessary, further prison accommodation—a contingency likely to arise, for on December 12th the Templars hitherto detained at Lincoln were ordered to London, where all the accused in the Province of Canterbury were being collected.<sup>4</sup> These measures, however, gave little satisfaction at the Papal Court, where there seems to have been no belief in the efficacy of ecclesiastical law as applied in England. And on December 23rd, Clement dispatched from Avignon a further missive to the King complaining of the obstruction the Inquisitors were encountering in their search for proofs of guilt,<sup>5</sup> to the great injury, he declared,

<sup>1</sup> Close Rolls, 4 Ed. II, m. 20, m. 18; Cal. (1310) 285, 290; Rymer, III, 228; Fœdera, II, 115, 117, 118.

<sup>2</sup> Similar orders were sent to the Constable of Lincoln to hand over the Templars in his custody to the Bailiffs of Lincoln to be imprisoned in the city gate there (November 22nd, 1310): see Close Rolls, 4 Ed. II, m. 18; Cal. (1310) 290.

<sup>3</sup> "Ob reverentia Sedis Apostolicæ": Rymer, III, 231, 232; Fœdera, II, 119.

<sup>4</sup> Close Rolls, 4 Ed. II, m. 17, m. 8; Cal. (1310) 290, 308; Rymer, III, 232-235; Fœdera, II, 119.

<sup>5</sup> "Propter cavillationes et malitiam aliquorum predicti regni tui."

of the Christian Faith, the contempt of the Holy See, and the scandal of many, and exhorting him to earn the remission of his sins by supporting the Inquisitors and transferring the inquiry to Ponthieu.<sup>1</sup>

After some months of the harsher treatment the Council had ordered, the Brethren who had been selected to endure it were again interrogated at the close of March, 1311, but without result, for their constancy remained unshaken.

Recourse was now had to the testimony of witnesses outside the Order, and during April seventy-five such deponents were sworn and examined, nearly all of them ecclesiastics belonging to rival religious fraternities, jealous of the Templars' privileges, and ready to listen to and repeat any gossip to their disadvantage.<sup>2</sup> In this way a considerable body of hearsay evidence was collected, stories repeated by persons who had heard them from others who were dead, or who did not themselves appear to support them. Further, to fortify this palpably unreliable testimony, confessions alleged to have been procured in France and admitting the denial of Christ were produced by the Inquisitors.

The next step in the proceedings was taken on April 22nd, when the London Templars were assembled before the Bishops of London and Chichester and the two Papal Inquisitors to hear the answers so far obtained by the various interrogations read over. After which they were offered a period of eight days to make any defence they might wish to put forward on behalf of themselves or their Order.<sup>3</sup> This was perhaps done in the hope that they might be entrapped into making some compromising admissions, for, when they failed to respond, those in the Tower were visited by an official of the Bishop of London accompanied by notaries and witnesses ready to take down and verify what they might choose to say. If a trap was intended it failed, for the prisoners replied to this agent that they were laymen ignorant of the law and deprived of the power of making a defence, as they were denied the assistance of any one who could give them competent advice.<sup>4</sup> Nevertheless, they said

<sup>1</sup> Regestum Clementis Papæ V (Annus Sextus), 85, 86 (No. 6670). In this letter the old story was again repeated of the alleged free and spontaneous confessions in France.

<sup>2</sup> Concilia, II, 358-364.

<sup>3</sup> *Ibid.* 364.

<sup>4</sup> The reply as recorded was as follows: "Qui dixerunt quod laici erant et juris ignari et quod subtracta erat eis omnis defensio cum non possent aliquos habere qui præberent eis consilium opportunum." Before the English pro-

that they relied upon their past services to the Faith, the esteem in which their Order had been held by the supreme Pontiffs, as shown by the privileges granted them and upon the answers they had given during their examinations.

At the expiration of the eight days the Templars who were in custody at the Tower were again brought before the Prelates and Inquisitors, when Sir William de la More, Master of the Order in England, delivered to be placed on record a declaration on behalf of himself and twenty-seven of the Brethren in the Tower, to which others in the prisons of the City Gates afterwards adhered. This declaration, drawn up in Norman French, contained a profession of their Christian Faith; asserted their due performance of their vows of chastity, obedience, and individual poverty; denied all the heresies and evil practices imputed to them; pledged anew their belief in the Sacraments of the Church, and prayed that their examinations and answers might be read before all the people in the language in which they had been conducted and made and first written down on paper.<sup>1</sup> This declaration, which can have been little to the liking of the Pope's representatives, carried the case for the prosecution no further, and the Templars returned to their prison houses to await such further treatment as their accusers thought fit to mete out to them.

There does not seem to be any clear account of what their treatment subsequently was. Those who examined their victims *secundum legem ecclesiasticam* preferred to conduct their proceedings in secret, and, while giving publicity to answers they obtained, shunned disclosing the means employed to procure them. It is known, however, that just before the above declaration was delivered a further order had been issued by the King from Berwick-on-Tweed directing the London prisoners in his officers' hands to be placed in fetters and kept in solitary confinement.<sup>2</sup> He had already in response to repeated solicitations sanctioned the use of torture; the Bishops now favoured its application, and the foreign Inquisitors, still baulked of proofs,

ceedings began Clement had published a sentence of excommunication against all who should dare to aid, counsel, or assist the Templars in any way.

<sup>1</sup> This declaration concludes: "E nous vous prioms pour Dieu e pour salvacioun de vous almes que vous nous jugez si comme vous volez respoudre pour vous et pour nous devaunt Dieu e que nostre examenement puet estre leu e oii devaunt nous e devaunt le peuple solom le respouns e le langage que fust dit devaunt vous, e escrit en papier": Concilia, II, 364, 365. The official record of the evidence is in Latin, which was no doubt unintelligible both to the Templars (unlettered soldiers) and to the common people.

<sup>2</sup> Close Rolls, 4 Ed. II, m. 8; Cal. (1311) 308 (April 28th).

can have been in no humour to stay their hands. From this time there is little doubt torture (at least, within the limits the Bishops had laid down) was systematically applied. There appears, however, to be no evidence of any Templar dying under the ordeal in London, as many did in France, though some succumbed under the general hardships of their confinement.

The Inquisitors' first success was with a new witness. On June 10th, 1311, the Sheriff of Wiltshire was ordered to send to London Stephen de Stapelbrigg, a Serving Brother of the Templars' House of Lydele, who, having escaped detection for a time, had shortly before been arrested at Salisbury. He had discarded his habit to conceal his identity, and was therefore said to be guilty of apostasy. The instructions were to deliver him up to the Inquisitors of heresy when they should so require.<sup>1</sup> The Inquisitors rapidly got to work upon him at the house of the gaoler at Newgate, and when he was afterwards publicly interrogated before the Bishops of London and Chichester on June 23rd, he made the following admissions:<sup>2</sup> There were, he said, two ceremonies at reception into the Order, the one *licita et bona*, the other *contra fidem*. At the second ceremony, in the presence of two Brethren of the Order bearing drawn swords, he had been ordered by the Master in England (then Brian de Jay) to deny that Christ was God as well as Man, and Mary His Mother, and commanded to spit upon the Cross. Thus threatened he had obeyed, and made the denial under fear of immediate death, nevertheless with his mouth only, not in his heart, and in spitting he had interposed his hand and spat near the Cross only. He said that the Master positively declared to him<sup>3</sup> that Jesus Christ was not true God and true Man; that though the Templars did not worship a cat or an idol in their chapters in England, he had heard they did this beyond seas; that the Master absolved from sins which Brethren were prevented confessing by shame or fear of the Justice of the Order; that sodomy was practised and considered lawful, but that he himself had not been guilty of it; and when asked by his examiners, in whom the Templars believed, if not in God and the Virgin Mary, he replied he did not know, unless in an evil spirit.<sup>4</sup> The conclusion of the record of this examination casts

<sup>1</sup> Close Rolls, 4 Ed. II, m. 4; Cal. (1311) 316, 317.

<sup>2</sup> Concilia, II, 383, 384.

<sup>3</sup> "Dogmatizabat eum."

<sup>4</sup> "Nisi in malignum spiritum."



a lurid light upon the means employed to obtain such damaging admissions. For the unhappy Brother having pleaded ignorance concerning some of the interrogatories and evidently fearing he had not confessed enough, and would be sent back to a renewal of his torments, fell upon his knees and, raising his eyes to Heaven, with clasped hands and tears and sighs and wailing cried for mercy and the grace of Holy Church.<sup>1</sup>

Two days later another new witness, Tocci de Thoroldeby, also a serving Brother, was interrogated before the same Bishops in St. Martin's Church (Vintry). He too was charged with apostasy, having fled from Lincoln in fear of his life because the Inquisitor, Abbot Lagny, after a fruitless examination of him there, had sworn by the Word of God, with his hand on his breast, that he would make him confess before he escaped from his hands.<sup>2</sup> As before, this Brother again denied all the charges, and in particular testified he had never believed the Master could absolve from sin. After an ominous interval of four days (in which torture, no doubt, had done its work) the witness was once more produced for further examination, this time in the chamber of the Prior of St. Mary's, Southwark, and with results which justified the Abbot's boast. He now told the Prelates that after his reception into the Order he was taken before the Master in England (then Guy de Foresta) and ordered by him to spit upon the Cross and the image of the Virgin Mary. Confronted by two of the Brethren bearing swords he feigned compliance, but in fact only spat on the ground beside the Cross, and kissed the Virgin's feet. He further deposed that he had heard Master Brian de Jay declare a hundred times that Jesus Christ was not true God and Man; that the Master absolved from great sins and the priests of the Order from minor ones; and that none of the souls of the Brethren could be saved unless they amended, for all were guilty of illegal absolution or some other unlawful act.<sup>3</sup>

One other triumph rewarded the Inquisitors. Brother John de Stoke, a Chaplain of the Order and Treasurer of the New Temple, had already been examined, and denied all the charges.<sup>4</sup> He was now selected for further interrogation and placed at the

<sup>1</sup> "Et deinde flexis quibus in terram elevatis oculis manibus complois cum lachrymis suspiriis et ejulater devote petiit misericordiam et gratiam sanctæ Ecclesiæ."

<sup>2</sup> "Abbas apposita manu ad pectus juravit in verbo Dei quod ipse redderet ipsum confitentem antequam evaderet manus suas": Concilia, II, 385.

<sup>3</sup> *Ibid.* 386-387.

<sup>4</sup> *Ibid.* 345, 346.

mercy of the foreign Inquisitors, and by them *plene examinatus*. This was a secret proceeding, and the record discloses no details regarding it, but there can be no doubt that the Latin words mean he was submitted to the full rigour of torture, for when again produced, on July 1st, before the Bishops in the Church of St. Martin's (Vintry) he told a very different tale. He now averred that he had denied Christ *ore sed non Corde*, obeying in this, through fear of imminent death, the command of James de Molay (then Grand Master of the Order), who, when the witness said Christ suffered for the redemption of mankind, had declared he spoke ill and in error, for Christ was only the son of a certain woman, and was crucified because He said He was the Son of God. He further deposed that he was told by the Master that all the Brethren of the Order were required to make this denial. Questioned regarding confession he pleaded his oath of secrecy, and to other interrogatories he pleaded ignorance. At the close of his examination he likewise threw himself upon the ground and with clasped hands entreated pardon, submitting himself to the judgment of the Church.<sup>1</sup>

After such admissions it might have been expected that the three offenders would have been subjected to the severest penalties the Church had the power to impose. But that was not the course the further proceedings took. The Bishops and Inquisitors had obtained evidence to justify the Pope's attack upon the Order, and with that they rested content. Brothers Stapelbrigg, Thoroldeby, and Stoke were made to confess publicly, and then rewarded with reconciliation to the Church ; <sup>2</sup> while the other prisoners, who, if these confessions were true, must not only have been guilty of like depravity but have added thereto persistent perjury, were informed that if they would publicly repeat a form of confession prepared by the Bishops of London and Chichester admitting they could not clear themselves of the Papal accusations and make submission to the Council, they would be absolved and received back into the bosom of Holy Mother Church.<sup>3</sup> Helpless, worn out by their sufferings and long imprisonment, and with the prospect of being burnt as heretics if they refused, it is not surprising that most of them

<sup>1</sup> Concilia, II, 387, 388.

<sup>2</sup> *Ibid.* 388-390.

<sup>3</sup> Hemingburgh gives the form of confession used in the Province of York, as follows : " Ego Frater R. recognosco me de articulis in bulla Domini Papæ contentis ita vehementer diffamatum et a qua me purgare non possum propter quod submitto me gratiæ divinæ et ordinationi istius concilii " : Chronicon, II, 292.

yielded, and publicly made the required confession. Five of the Brethren, whose age and broken health rendered them unable to take part in the public ceremony, were more privately absolved in a chapel near the Tower.<sup>1</sup> The Brethren thus absolved were either pensioned off or placed in the Monasteries of other Orders to do penance as the Bishops gave directions, allowances of 4*d.* per day each being made for their maintenance from the property of the Knights.<sup>2</sup> The behaviour of those thus placed, says Walsingham, was in all respects exemplary.<sup>3</sup>

Sir William de la More, the Master of the Temple, and his guest, the Preceptor of Auvergne, still stoutly maintained their innocence, and, refusing to abjure heresies they declared they had never entertained, or to admit any of the offences charged against the Order, scorned to be parties to the above compromise.<sup>4</sup> The Master's case was accordingly referred to the Papal Council at Vienne, by which, however, no decision upon it was ever given, for, broken in health, he died a few months later a prisoner in the Tower. There seems to be no record of the eventual fate of Himbert Blanke, but the last reference to him in the proceedings of the Council is ominous. It states that the Council have not yet ordained execution to be done upon his body, but have ordered him to be bound with double fetters of iron and shut up in the vilest dungeon, where he is to remain until further order, and meanwhile to be visited to see whether he will confess anything more.<sup>5</sup> Thus closed in England the career of the once rich and splendid Order of the Knights of the Temple.

Meanwhile, under the merciless direction of King Philip and his Inquisitors, the tragedy had been pursuing its cruel course in France. There, those Brethren who did not confess were condemned to perpetual imprisonment, while those who admitted the charges and did not afterwards withdraw their admissions were for the most part absolved and set at liberty. Others who,

<sup>1</sup> Concilia, II, 391.

<sup>2</sup> "Qui postea in hujus modi Monasteriis bene per omnia se gerebant": Hist. Anglicana (R.S.), I, 128.

<sup>3</sup> Concilia, II, 390, 393.

<sup>4</sup> See Cal. Close Rolls (1311), July, August, September, December, and (1312), May, July, *passim*, for payments of maintenance money in respect of Templars placed in Monasteries by the following Bishops: Chichester, St. Davids, Worcester, Lincoln, Salisbury, Ely, Norwich, Hereford, York, London, Coventry, Lichfield, Bath and Wells, Chester.

<sup>5</sup> "Concilium nondum ordinavit executionem de corpore ipsius faciendam sed in vilissimo carcere ferro duplici constrictus jussus est recludi et ibidem donec aliud ordinatum extiterit, reservari et interim visitari ad videndum si vellet ulterius aliqua confiteri": Concilia, II, 393. Mr. Addison says he died under this treatment, but gives no authority for his statement.

ashamed of their weakness under torture, subsequently retracted their confessions of guilt and claimed to defend the Order, were seized by Philip's command and burnt as relapsed heretics. Fifty-four so suffered at Paris in one day.<sup>1</sup> Their firmness in adhering to their retractations notwithstanding the terrible consequences and the intrepidity with which they endured a cruel death, astonished all beholders, and point with overwhelming force to the falsity of the charges laid against them.

On October 16th, 1311, nearly four years after the arrest of the Templars, Pope Clement opened at Vienne the Council he had summoned to condemn the Order and decree its abolition. Nine of the brethren who, having escaped arrest, had been hiding in the mountains of the Lyonnais, dared to appear before this tribunal and claimed to be heard in defence. The Pope's conduct in this emergency affords striking proof of his complicity in the designs of the French King. For him the Order was already condemned, and he had no intentions of allowing any defence. By Clement's orders the would-be defenders were seized and thrown into prison. But this was too much for the other members of the Council, most of whom came from countries beyond Philip's rule, and in some of which the Templars had been acquitted. Accordingly the Prelates adjourned without pronouncing any judgment in the Templars' case. They did not again meet until April 3rd, 1312, when King Philip, to make sure of the result, himself appeared upon the scene accompanied by an armed retinue. Thus supported Clement resolved to take the whole matter into his own hands, and, dispensing with any decision of the Council, himself announced, on May 6th, not by definitive sentence but by way of Apostolical provision, the dissolution of the Order.<sup>2</sup>

The fate of James de Molay, the Grand Master of the Temple, and some of his superior officers still remained undecided. Joining the Order in 1265 he won distinction as a soldier in Palestine, and in 1293 had been unanimously chosen Grand Master.<sup>3</sup> During his long imprisonment he had repeatedly

<sup>1</sup> May 12th, 1310 : Lea, *Hist. of the Inquisition*, III, 295. Others suffered a like fate at Senlis, Pont de Arche, and Carcassone.

<sup>2</sup> Walter of Hemingburgh (a contemporary authority), who has given an account of this Council, mentions that of the hundred and thirty Prelates who composed it, only those who came from the dominions of Philip and feared his vengeance were in favour of condemning the Templars : *Chronicon* (Edit. 1849), II, 293.

<sup>3</sup> So described Close Rolls, 22 Ed. I, m. 12 ; Cal. (1293) 339. See generally Larousse, XI, 395 ; *Biog. Universelle*, XXIX, 274-278.



appealed in vain for a hearing before the Pope, who since the arrest of the Knights had consistently shirked facing the principal victim. At length, towards the close of the year 1313, Clement appointed a commission of Papal Legates and French ecclesiastics to sit at Paris and pronounce judgment on the Grand Master. In view of the appalling consequences suffered by those of the Brethren who had dared to retract their admissions of guilt, the Commissioners did not doubt that he would adhere to and once more repeat the confession he had been induced to make. With Molay, Geoffrey de Charnis, Preceptor of Normandy, and two other Knights of high position, Hugh de Peraud, Visitor of France, and Godfrey de Gonnville, Preceptor of Aquitaine, were arraigned before this tribunal. The two latter abode by their former confessions, and were sentenced to perpetual imprisonment. But the Grand Master and Geoffrey de Charnis, to the astonishment of their Judges, seized the opportunity to publicly declare that they were innocent of the charges laid against them, that the confessions they had made to save their own lives were false and that the Order was pure and holy. Unprepared for such an emergency and at a loss what course to pursue, the Commissioners adjourned without pronouncing any judgment. Subject only to ecclesiastical law the Knights were not amenable to any lay jurisdiction till sentenced by a spiritual Court, but, contemptuously indifferent to Papal sanction, King Philip did not wait. Calling his Counsellors together he forthwith passed sentence of death, and at dusk of the same day, March 18th, 1313,<sup>1</sup> the Grand Master and his undaunted companion were taken by royal officers to an island in the Seine and, protesting their innocence to the last, slowly burnt to death.<sup>2</sup>

It is said that in his final agony Molay summoned Pope and King to meet him within a year before that tribunal where judgment does not err. The story may be an *ex post facto* invention to be explained rather by a popular belief in the innocence of the victims than by any circumstance which actually occurred. But, be that as it may, in the events which followed many believed they beheld the retribution of divine wrath. In little more than a month the venal Pontiff, glutted with ill-gotten

<sup>1</sup> At this time the year ended on March 24th.

<sup>2</sup> On this Dupuy, who wrote to vindicate the Monarchy, observes: "Le simple peuple abusé cette feinte constance et opiniâtreté crut que ces gens mouroient innocens et les tenoit pour saints; ce qui fut cause qu'après le supplice on eu vid qui ramassèrent de leurs cendres": *Condamnation des Templiers*, I, 64.

wealth, was smitten by a foul disease and passed to his account ; <sup>1</sup> while on the 29th of the following November King Philip, still in middle life, was called from the enjoyment of his plunder to answer for the wrongs he had committed. He expired at Fontainebleau, the victim of a mysterious malady which baffled all medical skill.<sup>2</sup>

As the Templars in the day of their power had elected to own no jurisdiction save that of the Holy See, the decree of Clement necessarily dissolved the Order. But in countries less subservient than France and England to Philip and his French Pope the results of their trials were very different. In Castile they were acquitted. In Portugal no evidence was found to support the charges laid against them. In Aragon they were declared innocent. The same conclusion was reached by two tribunals in Germany and in Cyprus, where, if the Order had been corrupted as alleged, proof of Oriental vices might have been expected to be forthcoming, the testimony of all classes only showed that their conduct was above reproach and their devotion to the duties of their religion conspicuous.<sup>3</sup>

Much learning has been expended upon the accusations and the evidence obtained in France, and from time to time very different opinions entertained as to the guilt or innocence of the Order. For, as a distinguished French historian has recently pointed out, later ages with less means of forming an opinion have proved much more credulous in regard to the charges of Philip than the most enlightened of his contemporaries.<sup>4</sup> Dante in particular, the most distinguished of them all, was not deceived. To him Philip in his treatment of the Templars was "*il nuovo Pilato si crudele.*"<sup>5</sup> In more recent times, however, as the extravagant nature of the accusations and the violent means employed to force confessions have been better appreciated, saner views have prevailed, and the tendency of the best modern opinion is to pronounce the Templars innocent.<sup>6</sup> Indeed, to

<sup>1</sup> April 20th, 1314.

<sup>2</sup> Lavissee, III, 199, 200. The story of the death of Philip from an injury received while hunting is not supported by any contemporary authority, and now discredited : see Michelet, *Hist. de France* (1861), III, 179. It has been noticed that none of the chief actors in the prosecution of the Templars prospered afterwards. Nogaret died before his master ; while King Edward II, after a dishonoured reign, perished miserably in Berkeley Castle.

<sup>3</sup> Lea, III, 309, 310.

<sup>4</sup> Lavissee, *Hist. de France*, III, 199.

<sup>5</sup> *Purgatorio*, Canto XX, 91.

<sup>6</sup> See *Encyclopædia Britannica* (1911), title Templars, XXVI, 598, 599, where the chief authorities are reviewed.

those who are accustomed to weigh evidence according to the more enlightened rules which now prevail, it must be matter for no little astonishment that learned scholars should ever have treated as worthy of serious consideration testimony so tainted at its source.<sup>1</sup>

In acquitting the Templars of the monstrous charges laid against them, it is not necessary to assume that all the members of the Order were above reproach. No human institution is wholly free from corruption. The Knights were collectively rich, and wealth is a fruitful parent of evil. That there were some black sheep in the flock is probable enough, but that the Order was permeated by the systematic depravity alleged exceeds all reasonable limits of belief. Thomas Fuller, with his usual felicity of phrase, correctly described the villainies imputed to the Order as "out of the road of human corruption and as far from man's nature as God's law."<sup>2</sup> In England it must be taken that the accusers failed to substantiate any of their charges except upon one minor point. Some of the Brethren seem to have entertained erroneous notions as to the power of the Master of the Temple to absolve from sin. Sir William de la More himself denied ever making use of the priestly formula of absolution;<sup>3</sup> though the authority and powers conceded to the Grand Masters by the early Popes before priests were admitted to the Order, as has been pointed out, might have justified the practice.<sup>4</sup> This, however, having regard to the unspeakable abominations charged against the Templars by King Philip and the Pope, was a relatively trifling matter and alone could have afforded no justification for their suppression. As has been shown above, the association of the Knights with the royal Court in England was close and intimate, and King Edward's original testimony to the esteem in which they were held by himself and all of his kingdom in living as well as morals,<sup>5</sup> must

<sup>1</sup> It is not without significance that no corroborative evidence of guilt was obtained from the Templars' houses. The sudden arrest of the Knights placed their houses and all their contents at the disposal of the Crown in France. If a secret obscene ritual existed and idols were worshipped in their chapters, why was no visible evidence of such things produced? And why was the attempt apparently made to utterly destroy all copies of the rules of the Order which by the elevation of their tone and the strictness of their provisions emphatically negated these suggestions? The inference to be drawn seems plain, that neither ritual nor idols had any existence in fact: see Lea, III, 264, 266; Milman, *Latin Christianity*, VII, 271; Lavissee, III, 195.

<sup>2</sup> *Holy War*, Edit. 1840, 243.

<sup>3</sup> *Concilia*, II, 356.

<sup>4</sup> See *English Templars*, Eng. Hist. Rev., XXIV, 445, 446.

<sup>5</sup> See *ante*, p. 48.

far outweigh in every impartial mind confessions wrung from human frailty by the infliction of unendurable pain and all the tittle-tattle of hearsay evidence inspired by the promptings of ecclesiastical jealousy.

Having regard to the great wealth of the Order it would not have been surprising if the Templars had lapsed from the strictness of their original rule and succumbed to soft living and the vices which too often accompany it. But of that the evidence obtained in England affords no indication. On the contrary, the rule to the last appears as a hard rule and one the observance of which was rigorously enforced.

It has sometimes been said, in justification of the suppression of the Order of the Temple, that their wealth and military power made them a standing menace to the civil governments of Europe. But there does not seem to be any evidence of their having at any time plotted against any lay authority in Christendom. In the case of England, where at the date of their suppression the number of the Brethren resident in the kingdom certainly did not exceed a few hundreds, the suggestion appears ridiculous. The secrecy of their chapters and the consequent mystery surrounding the ceremony of initiation were more potent factors in disturbing the popular mind. But if this alone were to be regarded as an adequate ground on which to condemn them every modern freemason might well consider himself in serious jeopardy. The efficacy of torture<sup>1</sup> as a means of eliciting the truth has long been discredited, and no court in any civilized State would now attach one feather's weight to admissions so obtained. The crafty greed of a needy and unscrupulous monarch is the true explanation of their fall. There was sound sense in the words of Thomas Fuller when he wrote of the Templars' tragedy :

"The chief cause of their ruin was their extraordinary wealth. . . . It is quarrel and cause enough to bring a sheep that is fat to the slaughter. We may believe that King Philip

<sup>1</sup> It is interesting to note Sir John Fortescue's denunciation of this branch of ecclesiastical law, which in his time had been largely adopted by lay tribunals on the Continent. "Truly," he says, "such a practice is not to be accounted law, but rather the very road to Hell" (*Vere non lex ritus talis esse perhibetur sed potius semita ipsa est Gehennam*): *De Laudibus Legum Angliæ*, c. XXII. It is certainly one of the most astonishing perversions in human history that mediæval Churchmen should ever have believed, as no doubt many honestly did, that in mangling men's bodies until they confessed or died they were serving God by saving souls.



would never have took away their lives, if he might have took their lands without putting them to death ; but the mischief was he could not get the honey unless he burned the bees." <sup>1</sup>

<sup>1</sup> Holy War (Edit. 1840), 246. Though the Pope purported to vest the lands of the Templars in the Order of St. John of Jerusalem, and King Philip by a fraudulent device pretended at one time to make them over to the custody of the Church, it was long before any substantial part of them was recovered from the Crown in France. The movable property and vast treasure of the Order were never recovered (see Lavissee, III, 198 ; Lea, III, 329, 330).

## CHAPTER IV

### THE CROWN AND THE NEW TEMPLE AFTER THE SUPPRESSION OF THE ORDER

WHEN the King's ordinance directed the seizure of the Templars' property it was uncertain whether the lands taken might not eventually be restored to the accused. The royal officers were accordingly required to make inventories of the Knights' possessions, and the Sheriffs of London, who seized the New Temple, made a return, at the conclusion of their year of office, of the property of the Order which they had taken into the King's hand. From this return, still preserved in the Public Record Office, and from other records of later inquiries held regarding the New Temple before the Hospitallers' claim to the property was finally admitted, some interesting particulars may be gathered of the establishment the Templars had there maintained. In trying to reconstruct the scene it is necessary to obliterate all landmarks now existing except the church then surrounded by cemetery ground in which many benefactors and Brethren of the Order lay buried.<sup>1</sup> On the outlying portion of this ground next Fleet Street thirteen houses had been built with the assent and at the wish of the Master and Brethren of the Temple by one Roger Blome, described as Nuntius or Messenger of the New Temple, to be let to tenants to secure an income for the upkeep of the lights and ornaments of the church.<sup>2</sup> On the south side of the cemetery was a hall connected with the church by cloisters. Nothing is known as to the appearance these cloisters presented, but as they were probably erected soon after the church was built, it may be inferred that they were in keeping with its architecture and very different from the cloisters which now exist constructed of greater width and with chambers over them in the seventeenth century from plans prepared by Sir Christopher Wren.<sup>3</sup> This hall had a chamber above it which may have been used as a dormitory. It appears

<sup>1</sup> Close Rolls, 11 Ed. III, Pt. I, m. 10 ; Cal. (1337) 72, 73.

<sup>2</sup> Misc. Inquis. Ch. File 129, No. 11, m. 3 : "de assensu et voluntate magistri et fratrum ejusdem Templi."

<sup>3</sup> See *post*, pp. 530, 531.

to have been pulled down and rebuilt some time after the suppression of the Order, for in none of the later references to the hall on this site is there any allusion to such a superincumbent chamber. Sir William Dugdale, judging by its architecture as seen in his day, considered the building then standing not older than the reign of Edward III.<sup>1</sup> The modern hall of the Inner Temple Society<sup>2</sup> though a more spacious edifice is believed to occupy substantially the same position as the original building.

Adjoining this hall on the west was a chapel dedicated to the Patron Saint of the English Crusaders, Thomas Becket, canonized of Acre, on account of a miracle alleged to have been wrought by him at the siege of that town. No description of this chapel has come down to modern times. Probably it was of small extent and removed or adapted to secular uses at the Reformation, for Henry VIII is known to have regarded with peculiar disfavour the memory of this rebellious Churchman. Besides this chapel, the hall above mentioned, the cloisters, and the houses erected by Roger Blome, were all on consecrated ground.<sup>3</sup>

West of the Chapel of St. Thomas stood another hall. The site of this building is not clearly indicated in any of the early records. But as it was altered to form chambers in the reign of Elizabeth,<sup>4</sup> pulled down when these chambers were rebuilt in 1639, and part of its ancient foundations uncovered during the repairing of a well in 1735, it is known to have occupied ground abutting on Middle Temple Lane, and now covered partly by Pump and partly by Elm Court. Sir Henry Chauncey (a Reader and Treasurer of the Middle Temple), who joined the Society in 1649, ten years after the demolition of this building, has described it as constructed "after the form of the Round Walk in the Temple Church."<sup>5</sup> The Round Walk was at one time a common name for the round or original church,<sup>6</sup> and Sir Henry's description no doubt means that this hall was of the same style of architecture as that church. It may therefore be inferred that it was one of the earliest buildings erected by

<sup>1</sup> O.J. 146.

<sup>2</sup> Erected 1868-70.

<sup>3</sup> Exch. L.T.R. Roll No. 109, m. 28 (*Communia Hilary Term, 11 Ed. III, Recorda iij*<sup>d</sup>): "Sunt eciam ibidem Claustum capella sancti Thome et quedam placea terre eidem capella annexa cum una aula et camera super edificata que sunt loca sancta et Deo dedicata et dicte ecclesie annexa." See also Misc. Inquis. Ch. File 129, No. 11, m. 3, in regard to Blome's houses

<sup>4</sup> See *post*, p. 234.

<sup>5</sup> *Antiquities of Hertfordshire* (Edit. 1826), II 434.

<sup>6</sup> *Stow's Survey* (Edit. 1908), II, 50.

the Knights at the New Temple. The foundations of this ancient hall when exposed to view in 1735 were seen to be of exceptional strength,<sup>1</sup> and this circumstance, taken in conjunction with the fact that it was not connected with the church, lends support to the suggestion which has been made that it was the hall of the military Knights, and the other hall on consecrated ground the Refectory of the Priests of the Order.<sup>2</sup>

As already stated, the Templars' Church was dedicated to the Virgin Mary, and immediately south of the round portion and on the east side of the cloisters was another chapel dedicated to her reputed Mother, St. Anne, venerated as the Patron Saint of mothers and young children. This chapel was a small building of two stories, access to the lower story being obtained through a doorway opening out of the Round and to the upper by a short flight of steps from the choir. The site is now indicated by seven large flagstones in the pavement which at present covers the open ground between the church and the Inner Temple Hall. The upper story of this chapel was taken down during some restoration work carried out in 1827, but the lower story, in part at least, still exists underground. There does not seem to be any reliable record of the date of its construction, but, judging by the form of the portion which remains, it was probably erected early in the thirteenth century.<sup>3</sup>

West of the Round Church was another building called the Bishop of Ely's chamber from its use for Exchequer purposes.<sup>4</sup> Part of Hare Court and of Dr. Johnson's Buildings now occupy this site. The main entrance to the New Temple from Fleet Street was where the Middle Temple Gateway now stands, and there the Knights had erected a great gate with a chamber over it. Inside this gate were four other chambers, a kitchen, and stabling.<sup>5</sup> These buildings seem to have formed a court, for a subsequent reference to the passage from the Great Gate to the river bridge describes it as being "through the middle of the Court of the New Temple."<sup>6</sup> From the Sheriffs' return of 1308 it is evident that there were also in the Temple at that date a

<sup>1</sup> Worsley's Bk. (Edit. 1910), 312; Report on Precedency (1736).

<sup>2</sup> *Ibid.* 53.

<sup>3</sup> For form and measurements see *Vetusta Monumenta*, Vol. VI; also Britton's *Architectural Antiquities* (1807), 15. It was used in the Middle Ages as a place of conference in ecclesiastical affairs; see e.g. Rymer, II, 192, 193 (1282). On Akerman's plan (1871) it is dated 1220.

<sup>4</sup> Misc. Inquis. (Ch.) File 129, No. 11, m. 3.

<sup>5</sup> Close Rolls, 11 Ed. III, Pt. I, m. 10; Cal. (1337) 72.

<sup>6</sup> *Ibid.* 3 Ed. III, m. 6<sup>d</sup>; Cal. (1329) 580.



granary, a brewhouse fully equipped, and a dispensary or storehouse with a chamber over it.<sup>1</sup>

Detailed particulars are also given in that return of the contents of the Knights' Church. From these it appears that it was richly furnished with chalices, censers, candlesticks, banners, crosses, carpets, altar frontals, service books, etc. Vestments are also mentioned. For the Choir there were twenty-eight copes, four little copes for the choristers, and two pair of organs. There were also divers pyxes and coffers for relics, some of which, in that age, must have been highly venerated, and by attracting pilgrims to the church, a lucrative source of income. Amongst these may be specially mentioned the sword with which the blessed Thomas of Canterbury was said to have been killed, two crosses with the wood on which Christ was crucified, and a silver vessel containing some of the blood of the Lord. In addition to the high altar there were also altars to St. John and St. Nicholas; and besides the Prior and other clergy, six chaplains were attached to the church endowed to celebrate the divine office for the souls of the Progenitors of the King, Kings of England.

Having regard to the extent of the New Temple ground, much of it must have been devoid of buildings. Part was used as a garden and part probably as an orchard. As the home of a military Order the buildings were no doubt enclosed by strong walls, but the references to such defences in the existing records are too vague to enable any description of them to be given.

It is remarkable that the Sheriffs' return contains no mention of the Treasure House in the New Temple, the existence of which is known from the raid upon it made by Prince Edward in 1263. The absence of any reference to such a place or its contents seems to suggest that on the arrest of the Knights any treasure found at the Temple was diverted at once to the King's use.

The Templars had many free servants and other retainers in their employment who were not members of the Order, and therefore not involved in the charges brought against it. With the fall of the Knights the provision to be made for such persons and others who were life pensioners of the Order in consideration of property transferred to the Knights must have become an

<sup>1</sup> Exch. L.T.R. Enrolled Accts. Misc. No. 20, m. 3.

<sup>2</sup> "j ense cum quo beatus Thomas Cantuariensis interfectus fuit ut dicitur . . . ij cruces cum ligno in quo Jesus Christus crucifixus fuerat . . . quodam vase argentea in quo positus est sanguis Christi": *ibid.* See translation in Judge Baylis, Temple Church, Appendix F.

urgent practical question. This difficulty seems to have been met by inviting such persons to establish their claims before the Barons of the Exchequer, by whom orders were made in favour of the successful parties upon the Keepers of the Templars' various lands. Judging by the number of such orders, the Exchequer officers must have had a busy time adjudicating upon the claims which were made. By way of illustration four orders are inserted here made in the year 1312 upon William Servat and Roger le Palmer, Keepers of the Templars' House of the New Temple, London :

" March 8th William Lambert and Caorsetta his wife to receive yearly from the New Temple London during his life time 100/- of yearly pension a robe of the suit of the free servants of that House ; and in case his wife survive him she is to receive only 50/- of the said pension for their quit claim of a corrody they had in that House." <sup>1</sup>

" April 26th Order to pay to Geoffrey Talifer 3*d.* daily for his food, 20/- yearly for his necessaries 1*d.* daily for the food of his groom and 5/- yearly for his wages and the arrears of the same which the Treasurer and Barons of the Exchequer have certified the King he ought to receive for life in the said House." <sup>2</sup>

" May 20th Order to pay Laurence de Ebor a yearly pension of 100/- and the arrears of the same ; the Treasurer and Barons of the Exchequer having certified the King that he ought to receive that sum yearly for life from that House until he shall be provided with a fitting ecclesiastical benefice." <sup>3</sup>

" March 30th Order to pay Roger Blome and Gaillarda his wife if they are alive and she be dwelling in England the following wages &c. which the Treasurer and Barons of the Exchequer have certified that they ought to receive for life from that House ; daily three white loaves and a small squire's loaf, two flagons of the better ale, and from the kitchen daily for dinner and supper as much as two brethren at table and one servant [receive], and two hundred faggots at the Feast of All Hallows, and a bacon

<sup>1</sup> Close Rolls, 5 Ed. II, m. 10 ; Cal. (1312) 409. A corrody was the right to receive victuals or sustenance from a monastic house in return for the gift of a corporeal hereditament.

<sup>2</sup> *Ibid.* m. 5 ; Cal. (1312) 421.

<sup>3</sup> *Ibid.* m. 4 ; Cal. (1312) 422.

pig at Martinmas and seventeen marks yearly at Easter from the Preceptor's purse ; and the said Roger is to receive yearly for life at the same term 40/- for two robes and the said Gailarda is to receive for life if she survive her husband and dwell in England nine marks of the aforesaid seventeen marks, or if she dwell in parts beyond sea six marks only at the Chapter of Paris from the Master of the Order of the Temple in England or his attorney ; and if she die before the said Roger he is to receive yearly fourteen marks of the said seventeen marks ; in consideration of their good service to the Templars and for one hundred marks paid by them to the Templars." <sup>1</sup>

The Roger Blome here mentioned was no doubt the builder of the thirteen houses on the north side of the Temple Cemetery. The mandate in his favour is remarkable in that it contemplates domestic services still being performed at the New Temple, and a daily provision made for meals from the kitchen there, four years after the Knights had ceased to rule ; and this state of things it is assumed will continue.

The Papal abolition of the Order of the Temple seems to have been followed by a general scramble to take possession of their lands, feudal superiors in particular claiming title by escheat.<sup>2</sup> The King himself set the example by treating the New Temple as if it had reverted to the Crown. On December 15th, 1312, he granted it by way of gift for good service to his cousin Aymer de Valence, Earl of Pembroke, together with the land called "Fiketescrofte," and all other tenements and rents late of the Templars in the City and suburbs of London.<sup>3</sup> But Earl Thomas of Lancaster claiming the property as Lord Superior in right of his Earldom of Leicester, it was surrendered to him at the King's request in October, 1314.<sup>4</sup> He retained possession till his attainder and execution in March, 1322, when the King treated the New Temple as forfeited to the Crown and again granted it to de Valence.<sup>5</sup> His enjoyment of it, however, was brief, for he died suddenly near Paris in June, 1324, while engaged on a mission to the French Court.<sup>6</sup> Once more in the

<sup>1</sup> Close Rolls, 5 Ed. II, m. 5 ; Cal. (1312) 422.

<sup>2</sup> *Ibid.* 17 Ed. II, m. 14 ; Cal. (1324) 91.

<sup>3</sup> Charter Rolls, 6 Ed. II, m. 20 ; Cal. (1312) 203.

<sup>4</sup> Pat. Rolls, 8 Ed. II, m. 17 ; Cal. (1314) 184, 185.

<sup>5</sup> Charter Rolls, 15 Ed. II, m. 6 ; Cal. (1322) 441.

<sup>6</sup> Chronicles of Ed. I and Ed. II (R.S.), I, 307.

King's hands (for de Valence left no heir) the New Temple was bestowed by Edward on Hugh Despenser the younger.<sup>1</sup> Misfortune, however, still dogged its owner, for this royal favourite was attainted and put to death by the Queen's adherents on November 24th, 1326.<sup>2</sup> Meanwhile a portion of the Templars' land on the west side of the New Temple had been seized by the adjoining owner, Walter de Stapledon, Bishop of Exeter (a trusted Minister of Edward II), and added to the grounds of his own house.<sup>3</sup> This ecclesiastic, hated by the populace on account of his extortionate taxation as Royal Treasurer, was murdered by a London mob and his mansion sacked in 1326.<sup>4</sup> But the land he had taken remained in the possession of his See, as no attempt appears to have been made by any subsequent owner of the Temple to recover it from the Bishop's successors.

While the ownership of the New Temple was thus changing hands another claimant to the property had appeared in the Prior of the Hospitallers, to whose Order Pope Clement at the Council of Vienne had purported to transfer the lands of the Templars. The English Baronage, however, resented the claim of a foreign Potentate or Council to dispose of lands in the Realm of England,<sup>5</sup> and it was not until the year 1324 that a Parliament at Westminster, "for the health of their souls and the discharge of their consciences," eventually determined that, notwithstanding the rights of Lords Superior by escheat, the property of the dissolved Order should belong to the Knights of the Hospital of St. John of Jerusalem, to the end that, pursuant to the intentions of the original donors, it might still be put to godly uses.<sup>6</sup> This enactment, however, had no immediate effect upon the New Temple so far as the Crown was concerned, for the King refused to admit the Hospitallers' title, and the Mayor of London, as royal Escheator, resumed possession of it at Despenser's death. This officer appears to have closed the Temple Gate and thus impeded the passage of persons wishing to proceed to Westminster by river from the Temple Bridge, for, on November 2nd, 1329, he was ordered to keep the New Temple

<sup>1</sup> Inquis. Post Mortem (Chancery), Ed. III, File 6, m. 45.

<sup>2</sup> Chron. Ed. I and Ed. II (R.S.), I, 319, 320.

<sup>3</sup> This he did during the tenure of de Valence and with his permission: "*placeam illam ex concessione dicti Adomari usurpavit et manso suo ibidem includere fecit*": see Inquis. Post Mortem (Chancery), Ed. III, File 6, m. 45.

<sup>4</sup> Chronicles, Ed. I and II (R.S.), I, 316.

<sup>5</sup> See prohibition to Prior of Hospitallers, claiming benefit of Papal decree: Close Rolls, 6 Ed. II, m. 29<sup>d</sup>; Cal. (1312) 544; Rymer, III, 337.

<sup>6</sup> 17 Ed. II, st. 2, *De Terris Templariorum*; Statutes of the Realm (1810), I, 197.



Gates open by day that the King's Justices' clerks and others wishing to pass by the water of Thames for the prosecution of their affairs might not be hindered or delayed.<sup>1</sup> In the following year another order was made in the interest of like persons requiring the Mayor to repair the Temple Bridge, which was broken down, and thus hindered the passage to Westminster of the Clerks of Chancery and other Ministers.<sup>2</sup> Further, a groom was appointed to keep the Houses, Gate and Gardens of the New Temple, and his wages of 2*d.* per day ordered to be allowed the Mayor in his accounts.<sup>3</sup> On January 25th, 1332, the King went a step further in the exercise of rights of ownership by letting the New Temple for ten years to William de Langeford, at an annual rent of £24,<sup>4</sup> and in the following month Langeford was ordered to cause the houses, walls, enclosures, and other buildings to be repaired by the view and testimony of two lawful men of those parts.<sup>5</sup> The Lord Prior of the Hospital, however, had not abandoned his claim to the property, part of which was consecrated ground. He accordingly presented a petition to the King in Council, claiming that in respect of such portion Despenser had no title upon which an escheat could operate in favour of the Crown. The Mayor was therefore directed to ascertain whether in fact Despenser had occupied consecrated places as alleged and detained them against justice, ecclesiastical liberty, and canonical sanctions, and, if so, to cause them to be remitted to the Church by ascertained bounds and delivered to the Prior.<sup>6</sup> The Inquisition which followed found that the Prior's contention was correct, and the Treasurer and Barons of the Exchequer were accordingly required to find what proportion of de Langeford's rent was chargeable upon the places delivered to the Prior. The result was a reduction of that rent by £12 4*s.* 1*d.*<sup>7</sup> The King, however, while thus admitting the claim of the Prior and Brethren of the Hospital to the consecrated places in the New Temple, still denied their right to the rest of the property, and it was not until £100 had been paid by the Prior towards the King's expenses in his war with France that the unconsecrated portion of the New Temple was conveyed to him by the Crown to be

<sup>1</sup> Close Rolls, 3 Ed. III, m. 6<sup>d</sup>; Cal. (1329) 580.

<sup>2</sup> *Ibid.* 4 Ed. III, m. 7; Cal. (1330) 102.

<sup>3</sup> *Ibid.* 5 Ed. III, m. 16, m. 12; Cal. (1331) 228, 241.

<sup>4</sup> *Ibid.* 12 Ed. III, Pt. II, m. 34; Cal. (1338) 416.

<sup>5</sup> *Ibid.* 6 Ed. III, m. 37; Cal. (1332) 434.

<sup>6</sup> Inquis. Misc. File 129 (11), 10 Ed. III; Cal. II (1336), No. 1485, p. 362.

<sup>7</sup> Close Rolls, 11 Ed. III, Pt. I, m. 10; Cal. (1337) 72, 73; Exch. (L.T.R.) Mem. Roll No. 102, 11 Ed. III, m. 3.

held in frankalmoin.<sup>1</sup> Langeford, who was himself an officer of the Order, acted for them in the negotiations which resulted as above, and in doing so incurred a pecuniary obligation of 100 marks. In recognition of this service the Prior and Brethren granted him, on August 1st, 1338, a lease for life of their manor of the New Temple at the nominal rent of 1*d.* per annum ; and, in June of the following year, made him a similar grant of their messuages and places of the sometime Temple lying from the Lane called "Chauncellereslane" to the Temple barre without the gates of the New Temple, whether void or built upon, at a yearly rent of 32*s.*<sup>2</sup> It appears by Inquisition that the Templars at the date of their suppression were the owners of seven shops in Fleet Street, then regarded as a separate holding, and these shops were no doubt the messuages comprised in Langeford's second lease. The circumstance that the Knights in thus adapting their Fleet Street frontage to a profitable use had placed it outside the bounds of their House, probably explains how it has come about that the Temple property now only touches Fleet Street at the top of Middle Temple Lane, the point at which the ancient Gatehouse of the Templars formerly stood.

Many changes had taken place in the vicinity of the New Temple since the Knights first settled there. The western boundary of the City without the walls had been fixed, and posts or bars placed to mark it in the Holborn highway and in Fleet Street. East of the Temple had arisen the great establishment of the Carmelite Friars, while to the north, halfway down and on the west side of the road (originally named New Street but now called Chancellor's Lane) leading from the Old to the New Temple, Ralph Nevill, Bishop of Chichester and Chancellor to King Henry III, had erected for his See a lordly mansion (*nobile palatium*) known as Chichester Inn,<sup>3</sup> which his successors in that Bishopric continued to occupy till the fifteenth century.<sup>4</sup> On the east side and near the Fleet Street end of this Lane King Henry had founded a house for Jewish Converts (*Domus Conversorum*) with a chapel for their use.<sup>5</sup> The expulsion of

<sup>1</sup> Pat. Rolls, 12 Ed. III, Pt. II, m. 22 ; Cal. (1338) 99.

<sup>2</sup> *Ibid.* 13 Ed. III, Pt. II, m. 29 ; Cal. (1338) 304.

<sup>3</sup> *Chronica Majora* (R.S.), IV, 287. "A man worthy of all praise," says Matthew Paris, "and an immovable pillar of fidelity in affairs of State."

<sup>4</sup> In 1422 the Society of Lincoln's Inn purchased this property with the exception of a small portion fronting on Chancery Lane, and still known as "Chichester Rents."

<sup>5</sup> Close Rolls, 19 H. III, m. 13 ; Cal. (1235) 78 ; Charter Rolls, 19 H. III, m. 11 ; Cal. (1235) 199.

all Jews from England by Edward I in 1290, stopped the further supply of recruits for this charity, which thereafter fell into gradual decay, leaving the premises available for other uses.<sup>1</sup> In 1333 Henry de Clif, Keeper of the Rolls of Chancery, had his lodging in the House of Converts, and the Great Seal was used to seal writs in the chapel there.<sup>2</sup> In 1376 Sir William de Burstall is found in possession of both offices,<sup>3</sup> and in 1383 King Richard II permanently annexed the House of Converts to the office of Keeper of the Rolls in Chancery. Thus the chapel of the Converts became the chapel of the Rolls, and the Master of the Rolls also titular keeper of the House of Converts.<sup>4</sup>

Immediately west of the New Temple was the Bishop of Exeter's house and garden. At what date this site was acquired by that See is not known ;<sup>5</sup> but as the Bishops of Chester and Worcester acquired houses in this neighbourhood during the reign of Edward I, it seems probable that Exeter Inn dates from about the same time. Beyond this house on the river front stood the Savoy Palace, named after the uncle of the Queen of Henry III, Peter de Savoy, whom that monarch created Earl of Richmond. After the death of Peter his mansion passed to Edmund of Lancaster, King Henry's second son, and thus became the London house of the Lancaster Earldom. Probably some houses had been built also on the north side of the Strand beyond the Church of St. Clement Danes, but behind such buildings, if they existed, was open country, no doubt much the same as it had been when Fitzstephen penned his description of London in the time of Henry II—meadow land intersected by streams.<sup>6</sup> One of those streams entered the Thames not far from the New Temple.

On the south, where the Temple property was bounded by the river, stood a structure formed of oak timber and referred to in contemporary documents as the New Temple Bridge,<sup>7</sup> but which was in the nature of a pier, placing the Knights in communication with river craft ; for the Thames was still the great highway between the City and the royal Court at Westminster.

<sup>1</sup> Stow's Survey (Edit. 1908), II, 42.

<sup>2</sup> Close Rolls, 6 Ed. III, m. 30<sup>d</sup> ; Cal. (1332) 551.

<sup>3</sup> *Ibid.* 49 Ed. III, m. 27 ; 50 Ed. III, m. 17<sup>d</sup> ; Cal. (1375-76) 147, 445.

<sup>4</sup> Pat. Rolls, 6 R. II, Pt. III, m. 12 ; Cal. (1383) 269. As late as 1873 the Master of the Rolls was still styled also keeper of the House of Converts : see Victoria Hist. London, 553.

<sup>5</sup> Stow's Survey (1908) II, 92.

<sup>6</sup> Vita S. Thomæ (R.S.), No. 67, III, 3 ; Stow's Survey, II, 70.

<sup>7</sup> In the Hall of the Middle Temple there is a wine cooler partly constructed from wood taken from this pier.

Nor is this surprising seeing that no road worthy of the name yet existed west of the New Temple. Indeed, the track to Westminster from Temple Bar at this time was so foundrous that a petition presented in Parliament for its amendment during the year 1325 alleged that both rich and poor passing along it, whether travelling on horse or foot, suffered great damage.<sup>1</sup>

Such were the general surroundings of the Temple in the fourteenth century, when its possession was about to pass to new tenants, who were destined to hold it for a much longer period than the time covered by the occupation of the Knights.

<sup>1</sup> Rot. Parl. I, 302.



## PART II

### THE REIGN OF LAW

#### THE HONOURABLE SOCIETIES OF THE INNER AND THE MIDDLE TEMPLE

“The Innes of Court the Nursing Sisters of the Comonwalth.”

SIR JOHN FERNE, *Blazon of Gentry*: 1586.

“The Inns of Court the noblest nurseries of humanity and liberty in the Kingdom.”

BEN JONSON, *Every Man out of his Humour*: 1616.



## CHAPTER I

### THE TEMPLE AND THE APPRENTICES OF THE LAW

WITH the advent of the Order of St. John of Jerusalem as owners of the New Temple darkness descends upon the scene. Hitherto the London house of the Templars has figured conspicuously in the national life of England; but now for a time it passes out of history. Councils of Church and State no longer assemble within its walls. Foreigners of distinction do not seek its hospitality, and it ceases to be the depository of private wealth and public revenues. That the Hospitallers themselves had no occasion to occupy it seems beyond doubt, for they already enjoyed more ample accommodation in their great House at Clerkenwell, which continued to be the administrative centre of the Order in England. Thus while maintaining the Church and its services, they leased the New Temple to William de Langeford for life, who presumably retained his interest in the premises till his death in 1346.<sup>1</sup> What he did with them, whether he occupied part himself or sublet the whole, there is at present no evidence to show. Once indeed after Langeford's decease the darkness which enshrouds this period of the Temple's history is illumined by the baleful fires of insurrection, revealing new tenants in the House of the Knights; but it is only a transitory gleam and succeeded by a darkness as profound. All that can safely be said is that seventy years after the suppression of the Order by Pope Clement V, Apprentices of the Law were settled in the New Temple and in possession of records which were unhappily destroyed. But when these apprentices first came there, on what terms they came, and from whence they came, no man knows. Not that these questions have failed to

<sup>1</sup> Inquis. P.M. 42 Ed. III, File 201, No. 38: "Willmus de Langeford obiit anno regni Regis Edwardii tertii post conquestum vicesimo sed quo die ignorant." See also Cal. of Wills Court of Hustings, Pt. I, 489, Roll 73 (125): will dated October 11th, proved November 11th, 1346. The date of the above Inquisition, 1368, seems to have misled Mr. Ingpen, who gives that year as the date of Langeford's death; see his edition of Master Worsley's Book, p. 15.

interest inquirers. On the contrary, they have been discussed by many writers, and made the subject of much ingenious speculation. Not, however, with any convincing result, for mystery still surrounds the origins of the two learned Societies of the Temple.

In reliance upon statements contained in a Manuscript<sup>1</sup> of the reign of King Charles I (compiled by a Bencher of the Inner Temple<sup>2</sup> and still in the possession of that Society), it was at one time generally believed that the lawyers who settled in the New Temple formed at first only one Society, and did not separate into two distinct fellowships until the reign of Henry VI, when (as was said) their increasing numbers having made it impracticable for them to continue under one government and take their meals in common in the same hall, another hall was built.<sup>3</sup> Modern research, however, has disclosed no facts tending to support this theory, and there are some which point strongly in an opposite direction. For instance, it is now known that the buildings erected by the Knights included two halls, so that in this respect there was always accommodation in the New Temple for two Societies of Lawyers, if two elected to settle there. Further, instead of having identical constitutions, as would naturally have been the case had the division into two Societies occurred in the manner alleged, the Temple Inns when they first emerge into the light of day exhibit serious constitutional differences, domestic control in the Inner House being vested in three or four Governors elected annually by the Masters of the Bench from among their own number; while the Middle Temple knows nothing of any such delegation of authority. Moreover, elections to the Bench in the former Inn are freely made from the general body of members, whereas in the latter there are no such elections, the Bench being recruited by Readers only, who pass automatically into the governing body after discharging the duties of that office.<sup>4</sup> Future research may

<sup>1</sup> Petyt MSS. No. 538, Vol. XVII, p. 400. See also I.T.R. I, xvii.

<sup>2</sup> John Wilde, Esq., Reader 1630: see Addison's *Temple Church* (1843), 51 note.

<sup>3</sup> The passage referred to is as follows: "By what time (H. VI) they were soe multiplied and growne into soe greate a bulk as could not conveniently be regulated into one Society neither was the olde hall capable of soe greate a number whereupon they were forced to divide themselves. A new hall was then erected which is now the Inner Temple hall. Whereunto divers of those who before tooke their repastes and diet in the olde hall resorted and in continuance of tyme became a distinct and divided Society or Company from the rest as they now are."

<sup>4</sup> There are no records of elections to the Bench of the Middle Temple till the reign of Charles I. Associates elected in the reign of Elizabeth had no



yet reveal facts which have so far eluded the investigator, it would therefore be rash to dogmatise, but for the present the safer conclusion seems to be that the Apprentices of the Law who settled in the New Temple constituted from the first two distinct Societies under separate and independent government.<sup>1</sup>

Though no satisfactory evidence has yet come to light, fixing with certainty the time when lawyers first settled in the Temple, two theories propounded upon the subject may be noticed here. The first of these, which is based upon the MS. above mentioned, puts the date in the reign of King Edward III and about the year 1346.<sup>2</sup> At that time, it is suggested, certain Apprentices of the Law migrated from a house in which they had formerly resided in the parish of St. Andrew, Holborn (the property of John Thavie, an Armourer by trade), to the New Temple and obtained from the Order of the Hospital a lease at £10 per annum of premises there, which they and their successors, Professors and Students of the Law, have occupied ever since.<sup>3</sup> This theory at one time was believed to derive support from the will of the above-named armourer, dated March 12th, 1348, which, as quoted by Sir Edward Coke from the Hustings Roll at Guildhall, in his address to the Reader prefixed to the Tenth Part of his Reports, directed the Testator's Executors, for the purpose of endowing a chaplain to pray for the souls of himself and his wife, to sell part of his estate, viz. *totum illud hospitium in quo apprenticii legis habitare solebant*. This is the house which later became historic under the name of Thavie's or Davy's Inn. An examination, however, of the Guildhall Roll (77 (242)) shows that the record there does not contain the word "legis" included in Coke's rendering, and that, on the contrary, there is no word in the enrolment indicating that the apprentices mentioned were not persons employed by the armourer in his own

voice in government. As to the theory that the Temple Societies were originally one, see also Mr. Hutchinson's brief review of the origin and early history of the Middle Temple prefixed to M.T.R. Vol. I, pp. xiv, xv.

<sup>1</sup> This was the ultimate view of Mr. Foss; see his letter of January 26th, 1856, in Notes and Queries, 2nd Series, I, 65. For the contrary opinion he formerly held, see Lives of the Judges, IV, 28.

<sup>2</sup> See I.T.R. I, p. xvii.

<sup>3</sup> The passage in the MS. reads as follows: "Afterwards viz. Anno 20 Ed. III which was not so long after ye Hospitallers were in quiet possession of this house called ye New Temple they farmed out ye same by ye name of their Mansion House or Mannor Place of the New Temple unto divers professors of ye Comon Lawes of this Realm who are supposed to have come from Thavyes Inne at the yearly rent of £10, ever sithence which time they and their successors professors and students of the Common Lawe have there resided": Petyt MSS. No. 538, Vol. XVII, 407.

trade.<sup>1</sup> At a subsequent date this house was no doubt an Inn of Chancery and was acquired as such in 1551 by the Society of Lincoln's Inn.<sup>2</sup> But in view of the Husting's record, this will can no longer be relied on as proof that lawyers had resided here and migrated to new quarters prior to Thavie's death.<sup>3</sup> At the same time it may well be that some Apprentices of the Law settled in the Temple in or soon after the year 1346, as tenants of the Hospitallers, for that is the year in which Langford's life interest in the premises terminated.

The second theory is also founded on an ancient MS. (in this case of uncertain date) which is said to have belonged to Lord Somers and later to Nichols the well-known antiquary.<sup>4</sup> According to this account, the Lawyers who first settled in the Temple were tenants of Earl Thomas of Lancaster, with whom they made composition for a lodging, and so coming, have continued there ever since. This MS. cannot now be traced, for nothing seems to be known regarding its subsequent history; it is therefore impossible to test its intrinsic value or regard the story it tells as embodying more than a floating tradition. In modern times this account has been embellished by the further allegation that the Earl's tenants came from St. George's Inn in Seacoal Lane, Holborn, reputed to have been the most ancient Inn of Chancery.<sup>5</sup> As Thomas of Lancaster only held the New Temple from October, 1314, till his attainder and execution in 1322, any composition entered into with him must have been made between those dates, and this tradition therefore carries the residence of Lawyers in the Temple back to the reign of Edward II. It has been suggested that the houses built by Roger Blome at the north side of the Templars' churchyard,<sup>6</sup> or some of them, were occupied by these Lawyers, and that inasmuch as ground there (now covered by Goldsmith Buildings) has always been accounted part of the Middle Temple, the Apprentices of the Law who formed

<sup>1</sup> Sir Wm. Dugdale citing Coke gives the words as "apprenticii ad legem"; O.J. 271.

<sup>2</sup> Black Bks. I, 299.

<sup>3</sup> Mr. W. Paley Baildon, who corrects Coke's mistake and gives the true record, thinks "apprenticii" alone denoted lawyers at that time: Black Bks. of Lincoln's Inn, IV, 287. But this is mere conjecture, and not the view taken in the published Calendar of the Hustings Wills, see Part I, p. 619, *sub nom.* "Tany."

<sup>4</sup> Addison, Knights Templars (1842), p. 346.

<sup>5</sup> Worsley's Bk. 18, 19.

<sup>6</sup> These houses must have been built prior to Lancaster's tenure of the Temple, for Blome built them with the consent of the Templars, and is mentioned in a record of 1313 as "nuper defunctus": Close Rolls, 6 Ed. II, m. 5; Cal. (1313) 532.

that Society were the first to settle in the New Temple.<sup>1</sup> It may be so, but at present there is no satisfactory evidence to establish a conclusion one way or the other. The further suggestion that these Apprentices of the Law came from St. George's Inn cannot be placed higher than an ingenious hypothesis, for it is unsupported by any known contemporaneous fact. It appears to have been made because New Inn, a house of Chancery founded one hundred and fifty years later by Lawyers, who are believed to have come from St. George's Inn, undoubtedly was affiliated to and passed under the control of the Middle Temple.

One other point remains to be noticed. The rent alleged to have been paid by the Apprentices from Thavie's Inn was £10, and the rent compounded for with the Earl of Lancaster seems to have been reputed a like sum. This was in fact the rent eventually paid by both Inns to the Hospitallers;<sup>2</sup> but there is no evidence to show what rent was paid by the Middle Temple in earlier times. More is known regarding the rent of the Inner Temple, which was reduced in 1521 from twenty marks<sup>3</sup> or £13 6s. 8d. to £10. This circumstance throws doubt on the traditional rent mentioned in the MS. of the reign of King Charles I, and suggests that figure of £10 may be a mere guess made at a comparatively late date by some person who assumed that neither Inn had ever paid a different rent.

At one time much stress was laid upon Chaucer's supposed connection with the Inner Temple as a factor in determining the antiquity of that Inn.<sup>4</sup> It must be admitted, however, that there is no reliable evidence to prove that he ever belonged to either of the Temple Societies, and while it is possible that he may for a time have studied law at the Temple, the few facts which modern research has brought to light regarding his early life do not encourage such a conclusion. The poet's reference to "a Temple" in his Prologue to the Canterbury Tales,<sup>5</sup> where he describes the "gentil Manciple" or Steward, no doubt suggests that at the time that Prologue was written lawyers were in occupation of the old home of the Knights. But as the composi-

<sup>1</sup> Worsley's Bk. 17.

<sup>2</sup> See Patent of James I, *post*, p. 264.

<sup>3</sup> Indeed this rent of twenty marks is at that date called the rent paid "ab antiquo." See *post*, p. 111.

<sup>4</sup> See Dugdale, O.J. 145.

<sup>5</sup> Dugdale quotes the passage as if it read "the Temple." But as "a Temple" is the rendering in all the earliest copies of the Tales save one, the former version is now generally rejected as a corruption of the true text.

tion of these Tales cannot be placed earlier than the reign of Richard II, the passage in question establishes nothing which is not more clearly proved from other sources.

Turning now to such evidence (other than tradition) as is available to connect Lawyers with the New Temple during the fourteenth century, two records of the later years of Edward III may be noticed. The first of these comes from the Patent Rolls of 1356, and records a pardon granted to William Thorp, Junr. (described as an apprentice of the Common Bench), of the King's Suit (*sectam*) for the death of Hugh Lombard, servant of the Steward of the New Temple, London,<sup>1</sup> whereof he was indicted or appealed, and of any subsequent outlawry. The second record is from the Close Rolls and dated March 13th, 1375, two years before the close of Edward's long reign. It tells of a loud complaint recently made before the King's Council by Clerks of the Chancery, Apprentices of the King's Court, and others of the people of the City of London,<sup>2</sup> who were used to have their common sport in "Fikettesfeld," by the Bishop of Chichester's Inn. These complainants alleged that one Roger Leget had privily hidden engines of iron, called "Caltrappes," upon a dyke newly raised by him in the said field by the Bishop's palace, as well at the bottom as at the top of the said dyke and everywhere about the same, knowing that every day the above-mentioned Clerks, Apprentices, and others came forth to play their common games there; and further that this he had done to the malicious intent that all coming upon the recently erected dyke might be maimed or at least grievously hurt.

No doubt this anticipation of modern barbed wire was formidable enough to young lawyers, tempted perhaps to take their ease in the intervals of their sports by sitting on Leget's dyke, and intended probably to protect it against such use. But Leget had gone too far, for the record proceeds to state that his contrivances were carried before the Council in the chapter house of the Friars Preachers, London, where, having confessed his fault and malice (*delictum et maliciam suam*), he was committed by the Council to the Fleet Prison, there to await the King's grace. A grace which was only extended to him in the form of a pardon when he had paid twenty marks to the hanaper of the

<sup>1</sup> "Pro morte Hugonis Lumbard quystroun Servientis mancipii Novi Templi London": Pat. Rolls, 30 Ed. III, m. 4; Cal. (1356) 377.

<sup>2</sup> "Coram Consilio Domini Regis Clamosa querimonia tam clericorum de Cancellaria et Apprenticiorum de Curia Domini Regis quam aliorum de populo civitatis London," etc.: Close Rolls, 49 Ed. III, m. 40<sup>d</sup>; Cal. (1375) 210.



Chancery.<sup>1</sup> "Fickettsfeld" will be recognized as the ancient exercise ground of the Templars, which lay across the roadway opposite the New Temple, and while the Clerks of the Chancery here mentioned may be presumed to have come from the Rolls Office in Chancellor's Lane, it can hardly be doubted that some at least of the Apprentices of the King's Court who daily disported themselves in this field, had their place of residence in the Temple. Indeed the account given by Thomas Walsingham and other Chroniclers of the doings of the rebels in Wat Tyler's insurrection, six years later, makes this reasonably certain.<sup>2</sup>

At the time of that rising, Sir Robert Hales, Prior of the Hospitallers, and thus landlord of the Temple, was also Treasurer of the Kingdom, in which capacity he incurred the special anger of the rebels, who not only attacked and set fire to the great house of his Order in Clerkenwell—which burnt for seven days—but likewise vented their rage on the New Temple, destroying there lodgings in which the Apprentices of the Law were wont to dwell and burning many of the records which they had in their keeping. This passage, which deserves to be quoted, is as follows :

*"Etiam locum qui vocatur 'Temple Barre' in quo Apprenticii juris morabantur nobiliores diruerunt, ob iram quam conceperant contra Robertum de Hales Magistrum Hospitalis sancti Johannis de quo præfati sumus ubi plura munimenta quæ juridici in custodia habuerunt igne consumpta sunt. Et amplius insanientes illam domum nobilem Hospitalis sancti Johannis de Clerkenewelle immiso igne ardere fecerunt per continuos septem dies."*<sup>3</sup>

In the case of the Temple the rebels extended their wrath also to the two ancient forges which the Templars had established and the Hospitallers still maintained opposite the New Temple on the east and west sides of St. Dunstan's Church, which, as the public records show, they effectually destroyed.<sup>4</sup>

<sup>1</sup> Close Rolls, 49 Ed. III, m. 40<sup>d</sup>; Cal. (1375) 210.

<sup>2</sup> Walsingham was at this time Scriptorarius at St. Albans Abbey and is therefore a contemporary authority. See Gairdner's *Early Chroniclers* (England), 267. Also D.N.B. LIX, 242.

<sup>3</sup> *Historia Anglicana* (R.S.) I, 457. Though Walsingham uses the name "Temple Barre" there can be no doubt the place meant is the New Temple.

<sup>4</sup> Close Rolls, 7 R. II, m. 37<sup>d</sup>; 8 R. II, m. 31<sup>d</sup>; see Cal. (1383-4) 390, 593, 594; also Rot. Parlt. VI, 313: "Whiche ii Forges in the tyme of the Insurreccion of oon Jak Strawe with the Comenes in the dayes of King Richard II were casten downe and finally destroyed."

These unfortunate happenings, which, alike at Clerkenwell and at the Temple, no doubt occasioned the destruction of documents which might have solved problems that still vex the legal antiquary, are also noticed by the French Chronicler of St. Mary's Abbey, York, and in another contemporary record of authority, the Leicester Chronicle of Henry Knighton. The St. Mary's account is as follows :

*"Les rebels alleront a le Temple et jetteront les measons a la terre et avegheront tighles issint qui ils fairont couverture en mal array ; et alleront en l'eglise et pristeront que furent en les hutches deins le Temple de Apprentices de la lay et porterent en le haute chimene et les arderont."*<sup>1</sup>

While the authorities above quoted seem to establish beyond a doubt that lawyers were in occupation of the New Temple at least as early as the latter part of the fourteenth century, and Walsingham's description of them as *apprenticii nobiliores* points to their being members of an Inn of Court rather than an Inn of Chancery, they throw no light upon the question whether these apprentices constituted one Society or two distinct fellowships. For evidence in regard to this it is necessary to pass to the next century.

The earliest reference to the Middle Temple, yet discovered, occurs in the Will of John Bownt of Bristol, dated August 24th, 1404, which contains (*i.a.*) a bequest of two marks—*pro immensa bonitate sua michi impensa*—to Robert the Steward of the Middle Temple (*Roberto mancipio Medii Templi*).<sup>2</sup> These words either connote a Society of the name or a divided occupation of the Temple premises which made it necessary to distinguish part of them by a special description. Seeing that long after this date the name "New Temple" is still being used in the public records to describe the Temple premises, the better inference would seem to be that the person named in this will was the Steward not of a place (*i.e.* premises forming part of the New Temple), but of a Society, the name of which had not yet

<sup>1</sup> Dugdale, O.J. 145. The passage in Henry Knighton's Chronicle reads : "Cum haec et alia mala fecissent redierunt ad Novum Templum quod erat Prioris de Clerkunwell et ibi plures domos subverterunt. Cistas in ecclesia sive in Cameris apprenticiorum inventas frugerunt et libros quoscunque inventos, sive ecclesiasticos sive cartas et munimenta in cistis apprenticiorum securibus scindebant et in cibum ignis dederunt": *Leycestrensis Chronicon* (Knighton) (R.S.), II, 135.

<sup>2</sup> *Law Quarterly Rev.*, October, 1908, Bench Book (Ingpen), p. 6, note.

displaced the former more general description of the premises its members occupied.

Clearer light, however, comes from the Paston Letters, one of which, written by Robert Repps to John Paston, and dated November 1st, 1440, contains the following passage :

“No more atte this tyme butte the Trynnte have you in proteccion &c and quan your leysyr is resorte ageyn to your College the Inner Temple for ther ben many gwyth sor desyr your presence.”<sup>1</sup>

Thus proving the existence at this date of an educational fellowship in the Temple known by the name it still bears. Further, the circumstance that this fellowship or College is called the “Inner Temple” and not merely the “Temple” certainly suggests that at this time another fellowship likewise existed there from which it was necessary to distinguish it by employing a double name. An inference which is in fact justified by the next evidence which must be cited. The Black Books of Lincoln’s Inn go further back than the extant records of any other House of Court, and under the year 1442 (20 H. VI) they record that Richard Wode, one of the Governors of that Society, received on the 14th day of March from the treasury of the Inn 49s. 5d. for a drinking between the Inn of Lincoln’s Inn and the Inn of the Middle Temple.<sup>2</sup> Again, a Paston letter, dated September 28th, 1443, is addressed to John Paston, “dwellyng in the Inner Temple at London”;<sup>3</sup> and another of April 2nd, 1449, “dwelling in the Inner Tempill”;<sup>4</sup> while a third letter of March 11th, 1450, is addressed: “To John Paston dwellyn in the Indre Inn of the Tempyll att London be thys letter delyvred in hast.”<sup>5</sup> Finally, a Paston letter of January 2nd, 1451, contains the following reference to both the Temple Inns of Court: “Other tydyngs as yet can I none tell you save Ulveston is styward of the Mydill Inne and Isley of the Inner Inne because thei wold have officz for excuse for dwellyng this tyme from her (*sic*) wives.”<sup>6</sup> An obvious allusion to the

<sup>1</sup> Paston Letters (Edit. 1895), I, 41.

<sup>2</sup> This entry (contractions extended) reads: “Memo: quod Richardus Wode recepit de thesauro XIII die Martii anno regni Regis Henrici VI, XX<sup>o</sup> XLIX<sup>a</sup> Vd, pro potacione inter Hospicium de Lyncoln ynn et Hospicium Medii Templi”; Black Bk. (original) I, 44.

<sup>3</sup> Paston Letters (Edit. 1895), I, 65.

<sup>4</sup> *Ibid.* 81.

<sup>5</sup> *Ibid.* 114.

<sup>6</sup> *Ibid.* 186.

appointments of Stewards for the time of Christmas, which, as will be seen later, were annually made by the two Temple Societies.

Further evidence of the existence of two distinct houses of Court in the Temple comes from the Year Books, which in the reign of Edward IV begin to state the names of the Inns from which the newly created Serjeants come. Thus in 1463, when eight Counsel were called to that degree, all the four Societies are mentioned as follows :

“Yong de Bristowe de Middel Inne; William Genny de Lincoln Inne; Nele, Guy Fairfax et Brian de Grais Inne; Grenefeld et John Catesby del Inner Inne et Pigot de Middel Inne.”<sup>1</sup>

There is also an entry in the Black Books of Lincoln's Inn for the year 1467, with reference to a demand made by Edward IV that each Inn of Court should send four members to attend him at the combat in Smithfield then about to take place between Sir Anthony Woodville (Lord de Scales) and the Bastard of Burgundy. This demand for some reason was resented at Lincoln's Inn; eventually, however, that Society withdrew their objection as the entry in question shows: “which order was rashly agreed to by both the Temples against our wish and consent, but afterwards it was agreed to, by all.”<sup>2</sup>

If therefore the saying of Lord Mansfield uttered nearly a century and a half ago is still true, that “the original institution of the Inns of Court no where precisely appears,”<sup>3</sup> it is at least now established that before the middle of the fifteenth century, two Societies of Lawyers were domiciled in the New Temple and already known by the names they have ever since respectively borne.

The next source of information is Sir John Fortescue, “a man of excellent learning and authority,” says Coke,<sup>4</sup> who, though he does not mention any of the Inns of Court by name, gives a succinct account of the part they played in the life of England in his time. Born towards the close of the fourteenth century, Fortescue received his legal education at Lincoln's Inn,

<sup>1</sup> Year Bk. 3 Ed. IV, Mich. Term (7): see also the later creation of 1478, Year Bk. 18 Ed. IV, Trinity Term, 11.

<sup>2</sup> Black Bks. (Edit. 1897), I, 45.

<sup>3</sup> *King v. Benchers of Gray's Inn* (1780), 1 Douglas, 354.

<sup>4</sup> Reports, Part III, p. xxi.



of which Society he was subsequently a governor. About the year 1429 he was created a Serjeant-at-law, and in 1442 he was appointed by King Henry VI Chief Justice of the King's Bench an office which he held for the long period of nineteen years.<sup>1</sup> While in exile with the Queen and heir of Henry VI, he wrote for the instruction of the young Prince about the year 1468 his celebrated treatise in commendation of the Laws of England.<sup>2</sup> As his hand is the first to draw back the veil and disclose something of the life and educational work of these Societies of Lawyers, his account deserves to be quoted at some length. First, however, it will be of interest to give his explanation of how it had come about that the Common Law of England was not then taught and learnt at the Universities of Oxford and Cambridge, but at London, in the Inns of Court and Chancery.

“In the Universities of England sciences are not taught but in the Latine tongue ; And the lawes of that land are to be learned in iij several tongues to witte in the English tongue the French tongue and the Latine tongue. In the English tongue because the law is most used and longest continued amongst the Englishmen. In the French tongue because that after the French men under William the Conqueror of England had obtained the land they suffred not their men of law to plead their causes, but in the tongue which they knew, and so doe all the men of law in France, yea in the Court of Parliament there. Likewise the Frenchemen after their coming into England, received not the accompts of their revenues but in their owne language lest they should be deceived therein. Neither had they delight to hunt and to exercise other sports and pastimes, as diceplay, and the

<sup>1</sup> Foss, IV, 308–315 ; D.N.B. XX, 43.

<sup>2</sup> “De Laudibus Legum Angliæ.” The above is the generally accepted date of the composition of this treatise. It was certainly written prior to May 4th, 1471, when the Prince was slain on the disastrous field of Tewkesbury. It was not published till long after the author's death, being first printed in 1537. The authenticity of the chapters here quoted (48 and 49) was challenged by Serjeant Pulling (Order of the Coif (1884) 154), who suggested they were interpolations by a later hand, chiefly because he assumed there were only three Inns of Court when Fortescue wrote, the Temple Societies being still one. The Paston Letters effectually dispose of this assumption. His other objections have been fully answered by Mr. Fletcher in the admirable Introduction to the published Records of Gray's Inn (see Pension, Bk. I, p. xxii, note). The English translation of Fortescue's Laws of England best known is that of Mr. Francis Grigor (1737, 1742, 1775). It is not, however, wholly satisfactory, and the translation here used is that of John Selden, published in 1616, which, if less ornate, has the advantage of being more accurate.

hand ball, but in their owne proper tongue. Wherefore the Englishmen by much using of their companie grewe in such a perfectnesse of the same language, that at this day in such plaies and accompts they use the French tongue. And they were wont to pleade in French till by force of a certaine Statute, that manner was much restrained ;<sup>1</sup> But it could never hitherto bee wholly abolished, as well by reason of certaine termes which pleaders doe more properly expresse in French than in Englishe, as also for that declarations upon originall writts cannot bee pronounced so agreeably to the nature of those writtes, as in French, and under the same speech the formes of such declarations are learned. Moreover all pleadings arguings and judgments passed in the King's Court and entered into bookes for the instruction of them that shal come after are evermore reported in the French tongue.<sup>2</sup> Many Statutes also of that realme are written in French. Whereof it hapneth that the common speech, now used in France, agreeth not, nor is not like the French used among the Lawyers of England, but it is by a certaine rudenesse of the common people corrupt. Which corruption of speech chanceth not in the French that is used in England, for as much as the speech is there oftner written than spoken. Now in the third of the said three tongues, which is the Latine tongue, are written all Writs originall and judicial ; and likewise al the Recordes of plees in the Kings Courts, with certaine Statutes also. Wherefore while the Lawes of Englande are learned in these three tongues, they cannot conveniently bee taught or studied in the Universities, where onely the Latine tongue is exercised. Notwithstanding the same Lawes are taught and learned in a certaine place of publique or common studie more convenient and apt for attayning to the knowledge of them then any other University. For this place of studie is

<sup>1</sup> 36 Ed. III (1362), c. 15. This Act recited that great mischiefs had happened to divers of the Realm through the proceedings in the Courts being conducted in the French tongue which was much unknown, and enacted that all pleas before the King's Justices and in other places and Courts should be pleaded, showed, defended and answered, debated and judged in English, but entered and enrolled in Latin.

<sup>2</sup> This probably refers to the old reports now known as the Year Books. Even later than the seventeenth century French was still the language of Reports and Abridgments, see *e.g.* Coke, Rolle, etc. Its use was not finally discontinued till 1731 (4 Geo. II, c. 26).

situatē nie to the King's Courts, where the same lawes are pleaded and argued and judgements by the same given by Judges men of gravitie, auncient in yeares, perfit and graduate in the same lawes. Wherefor every day in Court, the students in those Lawes resort by great numbers into those courts where in the same Lawes are read and taught, as it were in common scholes. This place of studie is set betweene the place of the said Courtes and the Citie of London, which of all things necessarie is the plentifullest of all the Cities and townes of the Realme. So that the said place of studie is not situate within the Cittie where the confluence of people might disturbe the quietnes of the studentes, but some what severall in the suburbes of the same Cittie and nigher to the said Courts that the studentes maye daylye at their plesure have accesse and recourse thether without wearinesse."

This account accurately describes the situation of the Temple Societies, removed from the bustle and turmoil of the City, though geographically within its bounds, and convenient for access to the Courts at Westminster.

The part played in this School of Law by the lesser Inns, called Inns of Chancery (*hospicia cancellariae*), is next described. These, Sir John Fortescue states, were ten in number, and sometimes more. Each of them had not less than one hundred students and some a much greater number, though not all in residence at the same time. He does not mention any by name, but some account can be given of nine such Inns which are believed to have been in existence when he wrote.

Nearest to the Temple was *Clifford's Inn*. Situated off Fleet Street, behind the Church of St. Dunstan in the west, some of its buildings still survive. At one time the town residence of the Lords Clifford (from whom it derived its name) it passed into the occupation of lawyers in 1344 (18 Ed. III), when Apprentices de Banco obtained a lease of it at a yearly rent of £10 from the widow of Robert de Clifford the sixth Baron.<sup>1</sup>

A little further west, beyond Temple Bar, and therefore outside the City bounds, on the north side of the Strand, stood *Clement's Inn*, "so called," says Stow, "because it standeth near to St. Clement's Church but nearer to the faire fountain

<sup>1</sup> Origines Juridicales 187 Stow's Survey, Vol. II, 41, 42.

called Clement's well." The date of the first occupation of this site by a Society of Lawyers is not known, but an Inn of Chancery was certainly located here in the reign of Edward IV.<sup>1</sup>

In the same neighbourhood was *Lyon's Inn*, which is mentioned in the Patent Rolls under the date February 6th, 1419 (7 H. V), and may have housed a Society of Lawyers considerably before that time.<sup>2</sup>

Still further west, on the south side of the Strand, stood *Strand Inn*, sometimes called Chester Inn, from the Bishops of Chester, who had obtained a residence here in the reign of Edward I, and whose property it was. This Inn of Chancery ceased to exist when the buildings were removed by Protector Somerset (in the reign of Edward VI) to clear a site for the new mansion which he destined for his own occupation, and the memory of which is still perpetuated by a later building.<sup>3</sup>

The other Inns of Chancery were more remote from the Temple. Of these *St. George's Inn*, reputed the most ancient of all,<sup>4</sup> was situated in Seacoal Lane, near Newgate, by St. Sepulchre's Church. Its premises having fallen into decay, the Society occupying them, or at least some of its members, about the time when Sir John Fortescue wrote or perhaps a little later, migrated to a new abode off the Strand and close to Clement's Inn, which became known as *New Inn*, and where later Sir Thomas More was for a time a student before he entered Lincoln's Inn.

Next, in the parish of St. Andrews, Holborn, and situate against the church of that name, was *Thavie's Inn*, which, as already mentioned, derived its name from John Thavie (or Davie), its one-time owner who died in 1348. However unreliable the tradition may be that this house was inhabited by Apprentices of the Law prior to Thavie's death, there appears to be no doubt that it was an Inn of Chancery a century later. It is mentioned in an Inquisition post mortem of the year 1419 as "*Davyesinne*," and in 1482 by the same designation in the Black Books of Lincoln's Inn, by which Society it was subsequently purchased in 1551.<sup>5</sup>

Further west, and also on the south side of the Holborn high-

<sup>1</sup> Stow's Survey (1908), II, 97 : Herbert's Inns of Court, 277.

<sup>2</sup> Pat. Rolls, 7 H. V, m. 24 ; Cal. (1419) 231 ; Herbert, 276 ; Dugdale, O.J 187.

<sup>3</sup> Stow's Survey, I, 77 ; Dugdale, O.J. 230 ; Herbert, 284 ; I.T.R. I, 178

<sup>4</sup> Fortescutus Illustratus (Waterhous) (1663), 576 ; Stow's Survey, II, 38 ; Herbert, 282 ; Dugdale, O.J. 230.

<sup>5</sup> Black Bks. I, 299.



way, stood *Barnard's Inn*, mention of which occurs as early as 1458, when its Principal, together with the chiefs of Clifford's Inn and Furnival's Inn, was sent in custody to Hertford Castle, in consequence of a disturbance in Fleet Street, in which members of those Societies were implicated.<sup>1</sup>

Still further west in Holborn, and opposite the end of Gray's Inn Lane, was *Staple Inn*, which as a residence of lawyers has been dated back to the year 1413.<sup>2</sup> The buildings of this Society were reconstructed during the reign of Queen Elizabeth, being then, as Stow states, "for a great part thereof fayre builded and not a little augmented."<sup>3</sup>

Immediately opposite Staple Inn, on the north side of the Holborn Road, stood *Furnival's Inn*. Originally the residence of Sir William Furnival, Students of the Law obtained a lease of the premises in 1408. During the reign of Edward VI, it also passed by purchase to the Society of Lincoln's Inn.<sup>4</sup>

Each of the above Inns of Chancery, though exactly how and when is a problem still awaiting solution, became affiliated and subject to an Inn of Court. Thus Lincoln's Inn acquired control over the Societies of Thavie's Inn and Furnival's Inn; Gray's Inn over Barnard's Inn and Staple Inn; the Inner Temple over Clifford's Inn, Clement's Inn, and Lyon's Inn; and the Middle Temple over Strand Inn and New Inn.

The students in these lesser Inns, continues Sir John Fortescue,

"for the most part of them are yong men learning or studying the originals and as it were the elements of the Lawe who profitting therein as they grow to ripenesse (*et ipsi maturescunt*) so are they admitted into the greater Innes of the same studie called Innes of Court (*hospitia curiæ*). Of which greater Innes there are foure in number And to the least of them belongeth in forme above mentioned two hundreth studentes or there aboutes."

Although here also Sir John Fortescue gives no names it is manifest he is referring to the Inns of Court mentioned in the

<sup>1</sup> Stow's Annals (1592), p. 660; Edit. 1631, p. 404. The ancient hall of this Inn still exists, incorporated in the School of the Mercers' Company. For an interesting account of its history, see Notes and Queries, 7th Series, 101, 141, 181, 221, etc.

<sup>2</sup> Williams, Staple Inn (1906), 100; Herbert's Inns of Court, 347.

<sup>3</sup> Stow's Survey, II, 40.

<sup>4</sup> In 1548: see Herbert, 324; Black Bks. I, Intro., xxviii.

Year Books—the only Houses of that class of which there is any knowledge—Lincoln's Inn, Gray's Inn, the Inner and the Middle Temple.

“For in these greater Innes there canne no Student be mayntayned for lesse expenses by the yeare then twenty Markes <sup>1</sup> and if hee have a servant to waite uppon him as most of them have, then so much the greater will his charges be. Nowe by reason of this charges the children onely of noble men <sup>2</sup> doe studie the Lawes in those Innes for the poore and common sort of the people, are not able to beare so great charges for the exhibition of their children; and Marchaunt men can seldome finde in their hearts to hinder their merchandise with so great yearly expenses And thus it falleth out that there is scant any man founde within the Realme skilfull and cunning in the lawes except he be a Gentleman borne and come of a noble stocke. Wherefore they more than any other kinde of men have a speciall regard to their nobilitie and to the preservation of their honor and fame. And to speake uprightly (*revera*) ther is in these greater Innes, yea and in the lesser to, beside the study of the laws as it were an university or schoole of all commendable qualities requisite for Noblemen.<sup>3</sup> There they learn to sing and to exercise themselves in all kinde of harmony. There also they practise dauncing and other Noblemen's pastimes as they use to doe which are brought up in the King's house. On the working daies (*ferialibus diebus*) most of them apply themselves to the studie of the Lawe And on the holy daies (*festivalibus*) to the studie of Holy Scripture; and out of the time of Divine Service to the reading of Chronicles. For there indeede are vertues studied and vices exiled. So that, for the

<sup>1</sup> The Latin text is “*octoginta scutorum*.” It is not clear why Selden has translated this “twenty marks” (£13 6s. 8d.). If scutum denoted a crown, and that coin in the fifteenth century was the equivalent of the French écu or escu sol, a gold coin said to have been much current in England, eighty such coins must have exceeded twenty marks in value. In Grigor's translation (Edit. 1917, p. 82) the rendering is £28; Waterhous (*Fortescutus Illustratus*) says £30. As to scutum, see C. T. Martin, Record Interpreter, and Murray's Dict., “Crown,” Vol. II, p. 1209.

<sup>2</sup> The text is “*nobilium filii*,” which should probably be now rendered sons of persons of quality, as in Grigor's version (p. 82). Noblemen, in the modern use of that term, seems to have much too restricted a meaning.

<sup>3</sup> Read now “gentlemen.”

endowment of vertue and abandoning of vice, Knights and Barons, with other States and Noblemen of the Realme place their children in those Innes, though they desire not to have them learned in the Lawes, nor to live by the practise thereof, but onely upon their Fathers allowance.<sup>1</sup>

“Scant at any time is there heard amongst them any sedition, chiding or grudging And yet the offendours are punished with none other paine, but onely to be amoved from the companye of their fellowship. Which punishment they do more feare, than other criminall offenders doe feare imprisonment and yrons: For he that is once expelled from any of those fellowships is never received to be a fellow in any of the other fellowshippes. And so by this meanes there is continuall peace: and their demeanour is like the behaviour of such as are coupled together in perfect amitie.”<sup>2</sup>

Such is the first authentic account of life in the Inns of Court. They are revealed as highly organized societies carried on under strict government and more orderly perhaps than they subsequently became at least in Stuart times. Though Sir John Fortescue throws no light upon their origin, it is evident that even in his time they were old institutions, and his description would seem to justify the inference that they must have been in existence as organized Societies or fellowships before the close of the century preceding that in which he wrote.<sup>3</sup> It is manifest too that in the fifteenth century they were educational institutions in a much wider sense than mere schools of law, and that many, probably most, of the students who attended them did so then, as later, without any intention of following law as a profession in life, but for a liberal education designed to fit them for the performance of such duties as might thereafter be incumbent upon youths born into the higher ranks of society. This explains the original meaning of those periodic entertainments or revels which long bulked so largely in the life of the Inns of Court. They were schools of manners as well as law, fitting their alumni to take their places later, in the larger

<sup>1</sup> “*Nec ejus exercitio vivere sed solum ex patrociniis suis.*”

<sup>2</sup> “*Quasi amicitia conjunctorum.*” De Laudibus Legum Angliæ (Selden), 110-115.

<sup>3</sup> As to this, see Pension Book, Gray's Inn (1569-1669), Mr. Fletcher's Introduction, p. xv.

life of the Royal Court, and to discharge those ceremonial duties which were incident to the government of the State. In this respect they were no doubt in marked contrast to the Universities of Oxford and Cambridge, where in mediæval times training in the manners befitting a gentleman formed no part of the academic curriculum, and the scions of noble houses seem to have mixed little in the Collegiate life, preferring to live apart in separate lodgings with their own servants.<sup>1</sup> "These Societies," wrote Sir Henry Chauncey of the Inns of Court, "were excellent seminaries and nurseries for the education of youth, some for the Bar, others for the seats of judicature, others for the government, and others for affairs of State."<sup>2</sup>

Except in the case of Serjeants-at-Law, Sir John Fortescue does not give any account of the counsel who represented litigants in the Courts. He never uses the word "barrister"<sup>3</sup> in his treatise, and the term "apprentice" occurs only once, viz. in Chapter 8, where he advises the young Prince to leave the intricacies of the law to Judges and Counsel: "*qui in regno Angliæ servientes ad legem appellantur similiter et aliis peritis quos apprenticios vulgus denominavit.*" Later in Chapter 51, when he refers to clients consulting with Serjeants-at-Law and other their counsellors, his phrase is, "*consulentes cum servientibus ad legem et aliis consiliariis suis.*" There seems no reason to doubt, however, that in the fourteenth and fifteenth centuries, *apprentice* was the current description of counsel who had audience in the King's Courts and were not of the Serjeant's rank. Proof of this will be found in the Rolls of Parliament and the Year Books. Thus in 1379 (2 Richard II), when a levy was authorized on diverse persons to meet the expenses of the war in France, lawyers were assessed as follows: "*chescun Serjeant et grant apprentice du Loy 40/-; autres apprentices qi pursuant la Loy, chescun, 20/-; et tous les autres apprentices de meindre estat et attournez, chescun 6/8.*"<sup>4</sup> Two years later, when delays in the administration of Justice were causing serious discontent, the Commons petitioned for the

<sup>1</sup> Rashdall, *Universities of Europe*, II, 655-659.

<sup>2</sup> *Antiquities of Hertfordshire* (pub. 1700), Edit. 1826, II, 433.

<sup>3</sup> In Grigor's translation of Fortescue, which is followed by Amos (1825), the term "Barrister" is introduced in Chapter 50 dealing with Serjeants-at-Law thus, "No one being advanced to that degree till he hath been first a student and a barrister full sixteen years." This is misleading; the Latin text is "*Qui non in prædicto generali Legis studio sex decem annos ad minus antea complevit.*" As to "Barrister," see *post*, p. 115.

<sup>4</sup> Rot. Parl. III, 58.



appointment of two Justices, two Serjeants, and four "loialx apprentices" to inquire into and remedy the evil.<sup>1</sup> Further, in a prohibition regarding dress, issued in 1406 (7 & 8 Henry IV), "*Esquier apprentice de Loy*" is the term used to describe Counsel under the Serjeant's degree;<sup>2</sup> while again in 1417 (5 Henry V), the lawyers summoned to take upon them the state and degree of Serjeants-at-Law are called "*apprentices de la Loy*."<sup>3</sup>

The Counsel whose arguments are reported in the Year Books at this time are usually Serjeants; but, occasionally, the names of advocates of lesser rank appear, and such are frequently described by the word "apprentice."<sup>4</sup> Indeed, down to the close of the period the Year Books cover, this is found to be the case.<sup>5</sup>

At what stage of his career the Apprentice of the Law became eligible to be heard as counsel in the Courts at Westminster, and how he was called to this status, Sir John Fortescue does not say. The first light upon this comes later in the reign of Henry VIII. His reference to the training in social accomplishments, which was part of the curriculum, in the Inns of Court is brief, and he makes no allusion to the keeping of Grand Christmas, which was a feature of English life in the Plantagenet period. There can be no doubt, however, that the mention in the Paston Letter of January, 1451, that Ulveston was Steward of the Middle Inn and Isley of the Inner, had reference to this celebration, and officers annually appointed for the period of its observance. The citizens of London were much addicted to entertainments and revels at this season of the year. Stow, writing a century later in his Survey of London (1598), gives an interesting description of this side of the national life, and if in his time the Inns of Court had begun to discourage such celebrations, as inimical to discipline and sober habits of study, there can be no doubt that in the period now under review the customs he mentions were regularly observed as national institutions:

"Now for sportes and pastimes yearly used. First in the Feaste of Christmas there was in the Kinge's house, wheresoever hee was lodged, a Lord of Misrule or Maister of merry disports

<sup>1</sup> Rot. Parl. III. 101.

<sup>2</sup> *Ibid.* 593.

<sup>3</sup> *Ibid.* IV, 107.

<sup>4</sup> Year Books, 33 H. VI, 5; 34 H. VI, 25; 1 R. III (Mich. Term), 2; 2 R. III (Mich. Term), 16.

<sup>5</sup> See 27 H. VIII (Easter Term), 8.

and the like had yee in the house of every noble man of honor or good worshippe were he spirituall or temporall. Amongst the which the Mayor of London and eyther of the Shiriffes had their severall Lordes of Misrule ever contending without quarrell or offence who should make the rarest pastimes to delight the Beholders. These Lordes beginning their rule on Alhollon Eve [October 31st] continued the same till the morrow after the Feast of the Purification commonlie called Candlemas day [February 2nd]. In all which space there were fine and subtle disguisings, Maskes, and Mummeries, with playing at Cardes for Counters, Nayles, and pointes, in every house, more for pastimes than for gaine.”<sup>1</sup>

As characteristic of these merry-makings he also notices a mumming by the citizens of London during Christmas, 1377, for the entertainment of Prince Richard (son of the Black Prince, and then eleven years of age), who, six months later, on the death of his grandfather, Edward III, ascended the throne as King Richard II. In this festivity one hundred and thirty of the citizens took part. They rode at night to Kennington, where the young Prince was lodged with his mother, and his Uncle John of Gaunt (Duke of Lancaster), and other nobles. Well horsed, with trumpets, sackbuts, cornets, and other music, they formed a gorgeous cavalcade, disguised as Knights and Esquires in attendance upon an Emperor, a Pope, and twenty-four Cardinals, as well as Legates and foreign Princes. At Kennington they were admitted to the presence of the Prince surrounded by his Court, to whom and the great people with him they presented rings of gold: the distribution being made by dicing, in which the Mummers took care that the intended recipient should always throw the highest number. Thereafter followed feasting and dancing, in which the Prince and all the Lords joined. “Which jolitie being ended they were againe made to drinke and then departed in order as they came.”<sup>2</sup>

In times like these it is not surprising that the Inns of Court, frequented as they were by the *apprenticii nobiliores* of the Law, with the exceptional facilities which their halls and Collegiate life afforded, should also have had their Lords of Misrule and merry disports, and sought refreshment in the festivities and

<sup>1</sup> Survey (Edit. 1908), I, 97.

<sup>2</sup> *Ibid.*

relaxations of the age. Writing at a much later date <sup>1</sup> concerning Christmas in the Middle Temple, the compiler of the Brerewood MS. lays special stress on the antiquity of the observance. The passage is as follows :

“ The comendable (or rather heroical) sports and pastymes performed in this house and the other Innes of Court are held to be bothe honorable and memorable namelie those in the tyme of Christmas whiche by an ancient ordynance begynneth yerelie upon the Even of All Saints and thence continually untill the feast Daie at night of the Purification of the blessed Virgin Marie upon which feast daies the Judges and Serjeants-at-law formorlie fellowes of those Societies personally feast and begyn the Revells with them in their Halles and thence on every Saturday weeklie after supper ended the Benchers and Baristers daunce their solempne Revells in their Gownes with a Songe or Carol begon by a Butler of the house, whiche ended the yonge gentlemen fall to dancinge the Measure Galliard &c in very laudable manner the Benchers beholding yt Theis comendable sportes and exercisings are of auncient tyme of highe observance from the reigne of E. III till this daie with muche coste and decency And suche was the nobleness of former tymes that every of the said foure houses of Court had their Grand Christmas tyme not inferiour to those of the greatest Princes of Christendome for amplitude of honor raretie of invention, Excesse of coste in Dyet and ritche apparell, as also everie way so princelie, in office and officers, as it cannot be well related the dexterytie therein.” <sup>2</sup>

The Wars of the Roses seem to have had little effect on life in the Inns of Court. Fortescue, exiled through his adherence to the Lancastrian cause, does not suggest any decline in their prosperity at the time he wrote. As the Year Books show, the work of the Courts went on as usual, and, judged by the Paston Letters, the fifteenth century appears to have been a litigious age. For the bulk of the nation these dynastic struggles, so destructive to the higher nobility, seem to have passed like thunder in the upper air.

Unhappily, what is known from general sources of the leading

<sup>1</sup> *Circa* 1638.

<sup>2</sup> MS. 82.

lawyers of this time, affords little information as to the Inns of Court from which they respectively came ; and in the absence of any records of the Temple Societies for the period, it is not possible to indicate the extent to which they shared in the training of those who rose to eminence in the profession. Sir Edward Coke, in the preface to the first part of his Institutes, names certain judges of the reigns of Henry VI and Edward IV as " famous and expert sages of the Law." They include five Chief Justices of the King's Bench : Sir John Juyn (1439), who had likewise held the offices of Chief Baron of the Exchequer (1423) and Chief Justice of the Common Pleas (1436) ; Sir John Hody (1440-2) ; Sir John Fortescue (1442-61) ; Sir John Markham (1461-9) ; and Sir Thomas Billing (1469-81). Four Chief Justices of the Common Pleas : Sir Richard Newton (1439-49) ; Sir John Prisot (1449-61) ; Sir Robert Danby (1461-71) ; and Sir Thomas Brian (1471-1500).<sup>1</sup> He also singles out for special commendation four Justices of the Common Pleas : Walter Moyle (1454-71) ; William Paston (1429-44) ; Robert Danvers (1450-67) ; and William Ayscough (1440-54).

Of these Judges, Sir Thomas Brian and Sir Thomas Billing are known to have been members of Gray's Inn, Sir John Fortescue and Robert Danvers of Lincoln's Inn. As regards the others there seems to be no satisfactory evidence to prove from what Inns of Court they respectively came. There is, however, one other Judge of this century in regard to whom Sir Edward Coke himself supplies this information, and upon whom he has pronounced his highest eulogium—Sir Thomas Littleton, the author of that famous treatise on Tenures,<sup>2</sup> "comprehending much of the marrow of the Common Law," to which Camden declared its students were as beholden as the civilians to the Institutes of Justinian. Littleton's name first appears in the Year Books in the first case reported for Easter Term, 28 Henry VI (1540). Coke states that he was called to the Bar at the Inner Temple, and later served there in the office of Reader, when he chose for the subject of his reading the Statute of Westminster the Second (*De Donis Conditionalibus*).

<sup>1</sup> Coke's commendation must be received with some reserve. Sir Richard Newton, in particular, seems hardly to have deserved the praise bestowed on him : see Foss IV, 348. Very different accounts have been given of Sir Thomas Billing. Lord Campbell, in his Chief Justices, portrays him in evil colours ; but his life is very inaccurate, and the more favourable account of Mr. Foss is probably much nearer the truth : see Lives of the Judges, IV, 410-419.

<sup>2</sup> "The golden book" ; Butler, on the study of Real Property Law : see Reminiscences, 64.



Called to the degree of Serjeant-at-Law by Henry VI in July, 1453, and appointed King's Serjeant two years later, he was raised to the Bench in the Court of Common Pleas by Edward IV in 1466. Not displaced during the brief restoration of King Henry (1470-1) he continued to sit in that Court till his death, in August, 1481, having been honoured by Edward IV, in 1475, with the dignity of a Knight of the Bath. His work on tenures was compiled (in the opinion of Coke) while he was on the Bench, and not long before his decease. Written in law French it embodied a complete statement of all the estates and tenures recognized by English law in his day. The first date of its publication is uncertain, but it was probably printed in the year of the author's decease. By 1628 it is said to have appeared in seventy editions; convincing proof that it soon became a classic.<sup>1</sup> So carried away was Coke by his admiration for this treatise that he has described it as "the most perfect and absolute work that ever was written in any humane science." This is obviously exaggerated praise, but he was within the limits of truth when he justly termed it "the ornament of the Common Law," and acknowledged the debt which, through it, all subsequent professors of the Law of England owed to Sir Thomas Littleton. The first of a long line of distinguished lawyers known to have sprung from the Temple, his posthumous portrait, once in the possession of Sir Edward Coke, and believed to have been copied from an early picture of the Judge in stained glass, may still be seen in the Hall of the Inner Temple Society.<sup>2</sup>

<sup>1</sup> An English edition of Littleton's Tenures with a valuable Introduction was published at Washington in 1903, by Prof. Eugene Wambaugh, LL.D., of Harvard University. This edition includes a chapter on the Bibliography of the "Tenures."

<sup>2</sup> Where, also, his arms, argent a chevron between 3 escallops sable, are displayed in the new glass of the large modern South Bay window.

## CHAPTER II

### THE TEMPLE UNDER THE EARLY TUDORS

IF legal life in the New Temple during the fifteenth century is only seen as through a glass darkly, fuller light comes with the Tudor period. In 1501 the Records of the Middle Temple Society become available, and those of the Inner House four years later. For the Middle Temple this source of information fails for a time after February 3rd, 1524 (16 H. VIII), as from that date till February 14th, 1550 (5 Ed. VI), the Records are missing. But for this loss some compensation is found in an account of the Inn written by an unknown hand not later than the year 1540.<sup>1</sup> The title of this narrative is "A Description of the Form and Manner how and by what Orders and Customes the State of the Fellowship of the Middle Temple (one of the Houses of Court) is maintained; and what Ways they have to attaine unto Learning."<sup>2</sup> There is also a Report upon the four Inns of Court and their method of learning made to King Henry, probably about the same time, by Thomas Denton (of the Middle Temple), Nicholas Bacon (of Gray's Inn, and later Lord Keeper), and Robert Carey, which is hereafter referred to as the Bacon Report.<sup>3</sup> From these materials it is possible to describe in some detail legal life in the Temple during the early Tudor reigns.

They reveal at once two distinct companies or fellowships, each pursuing in a collegiate life the study and practice of the Law. They are unincorporated voluntary Societies. They have no charters and know nothing of any Founder's day. Nevertheless, they are highly organized and governed by established rules which, when need is, they justify as in conformity with ancient custom and of old-time observance. Further, from references which occur in their books, it is evident they

<sup>1</sup> This writer refers to the Lord of St. John's as still landlord of the Temple. The property of that Order in England was confiscated in 1540.

<sup>2</sup> Cotton MS. Vitellius C, g f 321 a: Brit. Museum. This MS. is correctly printed in Herbert's *Inns of Court* (1804), pp. 211-222, to the word "ceased."

<sup>3</sup> *Fortescutus Illustratus* (Waterhous), 1663, p. 543. It describes King Henry as Head of the Church in England, a title he assumed in 1535.

once possessed records older than any which now exist. Thus the first entry in the Minute Books of the Middle Temple, which records in Latin the election of a new Treasurer of the Inn, states that on his accession to office there was handed to him the Book of the Constitution with the Rolls.<sup>1</sup> Neither Book nor Rolls can now be traced. While the earliest Minute of the Inner Temple, dated the morrow of All Souls, 1505, makes mention of an admittance entry on folio 150 of another book, which book must have been long in use at that time, though now it cannot be found.<sup>2</sup> Further, on July 6th, 1507, the following record occurs :

“By auctorite of divers parliaments by for tyme hade hit is ordered and establishid that ther be made a convenient chest and that hit be sett in the parliament house with divers lokkes to the same and that all the olde presidentes roullis and other wrytynges perteynyng unto the Company wich be not delyveryd unto the Treasurer of the yere for the tyme beyng be put into the seid Chest.”<sup>3</sup>

Notwithstanding the chest and its locks thus prudently provided, all these documents in the course of time have likewise disappeared.<sup>4</sup>

In each Society the ruling authority rests with a limited number of senior members known as the Masters of the Bench (*Magistri de Banco*), or, more shortly, “Benchers.”<sup>5</sup> In the government of the Inns they represent an apostolical succession, for they alone have the power of co-opting new members of their body, and thus maintaining or increasing its numbers. From whence they derived this power, and who invested them with their special authority, there is no evidence to show. All that

<sup>1</sup> A. 1; M.T.R. I. This entry is as follows: “Johannes Brook electus est Thesaurarius Medii Templi et assumpsit super se officium illud et postea in quindecima Sancti Michaelis Archangeli ex tunc proxima sequenti Guilielmus Bollyngs ultimus Thesaurarius liberavit eidem Johanni librum constitutionis ejusdem loci cum rotulis.” The earliest records of both Inns are chiefly in Latin. At the Inner Temple the use of that language in the Acts of their parliaments was generally discontinued before the close of the reign of Henry VIII. At the Middle Temple its use in the Records continues to a much later date.

<sup>2</sup> A.P. I, 1; I.T.R. I.

<sup>3</sup> A.P. I, 4; I.T.R. I, 9.

<sup>4</sup> I.T.R. I, Intro. x.

<sup>5</sup> The term “Bencher” first appears in the M.T. Minutes, November 2nd, 1507 (A. 10; M.T.R. 21). In the Inner Temple Records it occurs February, 1527 (A.P. I, 77; I.T.R. I, 90).

can be said is, they use the power and exercise the authority without challenge and without question. Their deliberations take place at formal meetings called parliaments, and the orders they then make bind all other members of their Inn.<sup>1</sup>

In both Societies the chief executive officer is the Treasurer (*Thesaurarius*), who is appointed annually. Next to him in importance is the Reader (*Lector*). To this office two nominations are made for each year, one for the Reading in Lent (*Quadragesima*), and the other for the Reading in Summer (*Autumnalis*). By the established practice of the Societies the office of Lent Reader is filled by a member who has already served as Summer Reader; while for the Summer Reading, the choice falls upon one who has not before discharged the Reader's duties.

At the Middle Temple in the sixteenth century there are no records of elections to the Bench of the Inn,<sup>2</sup> for the Bench consists exclusively of Readers, and election to that office carries with it, once the duties have been performed, admission to the governing body of the House. In this matter the practice of the two Societies is at variance, for elections to the Bench of the Inner Temple are freely made from the general body of members on the implied condition that, when required to do so, those elected will read in their turn.<sup>3</sup> Further, in that Inn there is a special office of Governor (*gubernator*), to which the Benchers appoint three or four of their number, who act as an executive Committee of the Bench in all matters relating to the internal affairs of the Society.<sup>4</sup> This office of Governor is unknown at the Middle Temple.

For the Christmas festival, solemnly kept, each Society nominates special officers. Of these the Steward (*Senescallus*), the Marshal (*Marescallus*), the Butler (*Pincerna*), and the Master of the Revels are common to both Inns. At the Middle Temple there is also a Constable of the Tower (*Constabularius Turris* or *ad Turrim*), and at the Inner House a Clerk of the Kitchen (*Clericus Coquinæ*), who is later supplemented by a Common Serjeant, a Constable Marshal, and a Master of the Game.<sup>5</sup>

<sup>1</sup> Parliaments were peculiar to the Temple. At Lincoln's Inn the Benchers' meetings were called "Councils," and at Gray's Inn "Pensions."

<sup>2</sup> In a few cases Treasurers who had not read were given a voice in Government. Associates were not complete Benchers. As to them, see *post*, p. 191.

<sup>3</sup> A.P. I, 3, 25, 95; I.T.R. I, 7, 39, 114.

<sup>4</sup> A.P. I, 1; I.T.R. I, 1, *et passim*. There were also Governors at Lincoln's Inn.

<sup>5</sup> A. 1, 2, 4, 5, 6; A.P. I, 1, 3, 87, 101, 107, 112.



Regarding these Christmas dignitaries the Bacon Report observes, "which officers for the most part are such as are exercised in the King's highness house and other noblemen and this is done onely to the intent that they should in time to come know how to use themselves."<sup>1</sup> Thus, in their origin these festivities of the Inns were not mere frivolities, but designed to have a certain educational value.

As the Paston Letters, already noticed, prove, the office of Steward for Christmas existed in both Inns in 1451,<sup>2</sup> and, judging by the entries imposing penalties for refusing to undertake the duties of the other offices of Marshal, Constable, and Butler, at the Middle Temple, there is reason to think they were not less ancient. Thus, under the date February 3rd, 1509 (10 H. VIII), when all the nominees for these offices declined duty, it was considered by the whole Company that the following fines of old time used (*ab antiquo in tale casu consuet.*) should be set upon them: Office of Marshal, 100s.; Constable of the Tower, 40s.; Butler, 5 marks (£3 6s. 8d.); and Master of the Revels, 40s.<sup>3</sup> While on February 7th, 1514, when the fine of 100s. was incurred for default in the office of Marshal, it is stated to be "accordyng to the custome of old tyme usyd."<sup>4</sup>

The records of the admissions of new members and of admittances to chambers also point to a settled practice probably of long continuance. The same may be said of the custom of keeping Commons in the House, with which the new member must comply, unless specially excused or pardoned for a payment in the nature of a fine. The exemption thus purchased may be from serving in the offices of the Society, or from keeping Commons in the House, or the learning vacations; and the fine imposed is by no means always a pecuniary one. Thus, on May 22nd, 1503, Nicholas Hughson, for 20s., had leave not to be in Commons henceforth except at his liking.<sup>5</sup> On May 17th, 1509, John Welsh was admitted to the Middle Temple and pardoned all offices and vacations, and allowed to be in or out of Commons at his pleasure, for one hoggeshed of Gascon Wine and one male deer.<sup>6</sup> Whytyng, who joined the Inn on February 5th, 1516, was granted a like immunity and liberty on terms to give to the fellowship either a picture well painted

<sup>1</sup> Waterhous, 546.

<sup>2</sup> See *ante*, p. 91.

<sup>3</sup> A. 16; see also 17, 18, 21; M.T.R. 31, 33, 35, 40.

<sup>4</sup> A. 24; M.T.R. 43. Many other like fines might be cited.

<sup>5</sup> A. 3; see also 7, 8; M.T.R. 5, 13, 16.

<sup>6</sup> A. 15 M.T.R. 28.

to hang in the Hall or one hoggeshed of good wine.<sup>1</sup> Again, in the same month, there is the following admission :

" John Bonour is admitted at the desyre of William Mordaunt into the Clerkes Comens in the Middell Temple by Master Reder Wyndesour W. Mordaunt and oder of the Company to be pardoned of all maner of offices except the office of boteler of Cristmas and to kepe ij lernyng vacacons for ij Cristmas vacacons and to be in Comyns in Cristmas weke only yf he be seen in the towne after the olde rule and for this liberty he must pay 13/4 in argento." <sup>2</sup>

The admittance last quoted is in English, but, generally, these entries are made in Latin. At the Middle Temple at this time they do not as a rule contain the name of the entrant's father or his place of origin. From the records of the Inner Temple the following admittance to Masters Commons may be cited :

" February 7th, 1515/16, *Johannes Rudhale filius Willielmi Rudhale admissus est in Societatem hujus interioris templi ad Coës magystrales et sui omne plege predictus Willielmus Rudale e Robertus Wye.*" <sup>3</sup>

Also an admittance of May 31st, 1519, which is in French :

" *Thomas Bromele permette et graunte all Compeneey de le Inner Tempell de paier mes Commons et auteres duetes en le dit Tempell et de etre goveryn et redresse par les governers et par le dit Compeneey et de obaier et performer totes maners ordnaunces de le Compeneey de le dit Tempell sur payne d'etre oust a tous jourz : Pleg. John Whiddon, Thomas Newton.*" <sup>4</sup>

At this early period it appears to have been usual to admit to the Inns without payment entrants who did not seek exemption from any of the usual offices of the House or the ordinary duties

<sup>1</sup> "Una bona tabula bene depyngta ad pendend. in Aula dicti Templi vel una hoggeshed boni vini," etc. : A. 27 ; M.T.R. 49. Truly "the records of an Inn of Court are tinged with the roseate hue of good wine" : F. W. Maitland, *Collected Papers*, III, 82 : cf. A.P. I, 17 ; I.T.R. I, 27.

<sup>2</sup> A. 29 ; M.T.R. 51. As to "seen in Town," see *post*, p. 351.

<sup>3</sup> A.P. I, 22.

<sup>4</sup> A.P. I, 31

and obligations of membership.<sup>1</sup> Where such exemption was sought fines seem to have been invariably imposed, though, in both Inns, the amount of such penalties varies in a perplexing degree, indeed, as much as from 10s. to £4 10s. The quantum of the fine no doubt bore some relation to the extent of the exemption granted, but sometimes the same concession entails very different penalties without any explanation of why that is so.<sup>2</sup>

The Prior of the Hospitallers, popularly called the Lord of St. John's, was still the landlord of the New Temple and when Records of the Inner House first become available, the annual rent paid to him by that Society was twenty marks, or £13 6s. 8d.<sup>3</sup> This was the rent anciently (*ab antiquo*) paid by the Inn. Early in the reign of Henry VIII, however, it was reduced to £10 (or 15 marks), Anthony Babington, the then Treasurer of the Society, having arranged with the Lord Prior that the fellowship should have this reduction in return for doing their own repairs. The entry as to this in the Parliament Book is in Latin, and dated February 2nd, 1521. It states that the members cordially assented to this arrangement on account of the difficulty of getting the Lord Prior to do any repairs, who made many complaints that the Society occupied his lands against his will; the scribe adding: "And now by paying the said annual sum of £10 we are for ever quit, God willing."<sup>4</sup> The expressions "against his will" and "for ever quit" are curious, and suggest the Society had some hold over their landlord, which mere tenants by the year would not have had. If that was so, there appears to be nothing at present to show what it was. But some such unknown factor may account for the circumstance that, ever since the reign of Richard II at least, lawyers, though only paying, as is believed, an annual rent, had been able to continue their occupation of the Temple premises. The only evidence as to the amount of rent paid by the Middle Temple Society at this time is the recital in the Letters Patent of King James I, that £10 was the annual rent paid by the Inn to the Hospital of St. John of Jerusalem.<sup>5</sup>

<sup>1</sup> See e.g. 19 Admissions (I.T.) without any fine, November 2nd, 1526, and 6 similar cases, July 3rd, 1537 (A.P. I, 73, 96); I.T.R. I, 84, 85, and 116; and (M.T.) (A. 5, 8, 14, 34, 46; M.T.R. 10, 16, 27, 59, 75).

<sup>2</sup> A.P. I, 45, 68, 69, 70, 72, 75, 81, 84-86; I.T.R. I, 74, 78, 79, 81, 83, 87, 96, 100-104.

<sup>3</sup> Taking the mark at 13s. 4d.

<sup>4</sup> A.P. I, 62. The translation here adopted is taken from I.T.R. I, 67.

<sup>5</sup> See *post*, p. 264.

Passing now to a detailed consideration of the domestic life of the Inns, as portrayed in the contemporary account of the Middle Temple, and the Bacon Report above mentioned, neither Society had any endowments, both being entirely dependent on receipts from members by way of rent, fines, or other charges. This is the first point noticed by the anonymous writer on the Middle Temple :

“ There is no lands or revenue belonging to the house whereby any learner or student mought be holpen and encouraged to study, by means of some yearly stipend or salary ; which is the occasion, that many a good witt, for lack of exhibition, is compelled to give over and forsake study, before he have any perfytt knowledge in the lawe and to fall to practysing, and become a typler in the law.” <sup>1</sup>

The Treasurer of the Middle Temple, as chief officer of the Inn, had the sole power of admitting to Chambers.<sup>2</sup> He received payment of all admittance fines and other charges, and generally managed the finances of the House. At the close of his year of office he rendered an account of his receipts, which was audited by two of the senior members chosen for that purpose. At this time there was no under-Treasurer—that office being of later creation. The anonymous writer thus describes the powers and duties of the Treasurer :

“ *The Auctoryte of the Hed Officer in ther House* : Item, that there is in the said house, yearly chosen by the elders of the house, one of the sagest of them to bere the office and name of Tresorer ; <sup>2</sup> and his auctorite is to admit into the fellowship such as he thinketh mete : his auctorite is to assign such as are of the fellowship there, their chambers and lodgings.<sup>3</sup> His auctoryte is to gather of certen of the fellowship, a tribute yerely of 3/4 a peice, which among them hath the name of a pencion, and to receive of certain of the fellowship a rent of certaine Chambers. His office is also to pay of the said money, the rent due to the lord of St. Johns for the house that they dwell in ; and to pay also

<sup>1</sup> See also Bacon Report, Waterhous, 544.

<sup>2</sup> At this time the Treasurer was elected and took office in summer. Later his taking office was postponed till Michaelmas Term.

<sup>3</sup> Cf. Order, July 4th, 1521, A. 40 ; M.T.R. 68.



of the said money for reparations of their chambers and houses. His office is also to pay of the same money the wages or salary of the servants of the house ; as the stuard, their butlers, cokes and other officers ; and yerely to yield accompt of his receipt unto two auditors, which are apoynted unto them by the elders of the house.”<sup>1</sup>

By an order of parliament made July 9th, 1518, it was provided that these auditors should be named and assigned annually in Trinity Term to hear the account of the Treasurer of the year last past.<sup>2</sup> In the Inner Temple the auditing was later done by two Benchers and two Utter Barristers.<sup>3</sup>

On joining the Society the new member, in ordinary course, took his place at Clerks Commons, where he dined and supped with the junior students.<sup>4</sup> After two years in this grade of membership he passed, or (as the anonymous writer states) was called into Masters Commons,<sup>5</sup> and if he persevered with his legal studies he might after five or six years more be eligible for call to the degree of the “ Utter-Barre.” After a further period of eight or nine years in that status he might be chosen Summer Reader, and so become a Bencher of the Inn.

“ Also the benchers are those utter-baristers which after they have continued in the house by the space of fourteen or fifteen years, are by the elders of the house chosen to reade, expound, and declare some estatute openly unto all the Company of the house, in one of the two principall times of their learning, which they call the grand vacation in summer ; and during the time of his reading, he hath the name of a reader and after of bencher.”<sup>6</sup>

The duties of this office will be described later in connection with the system of law learning followed in the Inns.

The paid servants of the Middle Temple included the following officers, who received respectively in money the annual remunera-

<sup>1</sup> Herbert, 212.

<sup>2</sup> A. 32 ; M.T.R. 55.

<sup>3</sup> A.P. I, 122 ; I.T.R. I, 175 (November 4th, 1554).

<sup>4</sup> The term “ Clerk ” was a common description of students who had not attained the status of graduates, at the Universities of the Middle Ages ; see Rashdall's *Universities of Europe*, II, 637, 645.

<sup>5</sup> All members of the Society who had passed out of Clerks Commons ranked at this time (and long afterwards) as Masters. The description was not confined to members of the Bench.

<sup>6</sup> Herbert, 214.

tion stated for each : the Steward, four marks (53s. 4*d.*) ; the chief Butler, 33s. 4*d.* ; the second and third Butlers, 6s. 8*d.* each ; the chief Cook, 20s. ; the Manciple, a servant under the Steward who assisted him in the discharge of his duties, 26s. 8*d.* ; the Laundress, 6s. 8*d.* In addition to the remuneration named above, the three Butlers were each entitled to 12*d.* from every gentleman of the House at Christmas ; while at Easter the Cooks and Manciple received a like acknowledgment of their services.<sup>1</sup> Besides these money payments the above servants (the laundress only excepted) no doubt at this time, as was the case later, received their food free while on duty. Further, the Steward was provided with a free house.<sup>2</sup>

All the offices to which appointments were made for the keeping of Christmas, with the exception of that of Steward, were filled at the Middle Temple by Junior Members who had not yet attained the status of Utter Barristers. The duties of Steward for Christmas, on the other hand, were at this time discharged by a member of standing in the House, generally the member chosen to serve as Reader in the following summer,<sup>3</sup> and the same practice prevailed in the Inner Temple.<sup>4</sup> Regarding these offices the anonymous writer states :

“ All they that are fellows of the House, except at the time of their admittance they be dispensed withall, or for their lernynge be promotyd and made utter-baristers are compelled to exercise all such roomes and offices as they shal be called unto at such times as they kepe a solempne Christmas upon such peynes as are by old custome used to be assessed for the refusall of occupying such offices.”<sup>5</sup>

It is remarkable that the term “ apprentice ” is never used, either in the account or report above mentioned or in the earliest Temple Minutes. It occurs in the Records of the Middle Temple Society,<sup>6</sup> in a Latin entry of the year 1562 (when Edmund Plowden was Treasurer), which states that if Master Mawdeley dies or leaves his chamber the Treasurer may admit an apprentice or any other thereto.<sup>7</sup> Subsequently, it is found in three

<sup>1</sup> Herbert, 220.

<sup>2</sup> A. 41 ; M.T.R. 69.

<sup>3</sup> A. 24, 27, 29, 33, 35, 37, 39, 43, 44, 46 ; M.T.R. 43, 48, 51, 57, 60, 62, 65, 72, 73, 75.

<sup>4</sup> A.P. I, 80 ; I.T.R. I, 94 (November 2nd, 1529).

<sup>5</sup> Herbert, 215.

<sup>6</sup> It has not been found in those of the Inner House.

<sup>7</sup> D. 47 ; M.T.R. 138. “ Et si contingat predictum Magistrum Mawdeley

admittances of 1593, 1598, and 1603, as descriptive of Matthew Dale, the Father of the persons admitted, a Benchers and very senior member of the Society.<sup>1</sup> So far as the Records of the Inns are concerned the word seems to have dropped out of legal nomenclature. This is the more surprising, seeing that the term had been so long used to describe counsel under the rank of Serjeant, and that even in the seventh year of King Edward VI a licence granted to Richard Tothille to print books of the Temporal Law, called the Common Law, imposed the condition that they should be allowed and adjudged meet to be printed by one of the Justices, or two Serjeants, or three Apprentices of the Law, whereof the one to be a Reader in Court;<sup>2</sup> while the learned Edmund Plowden, who joined the Middle Temple about 1538, and whose devotion to the old religion prevented him being raised to the rank of Serjeant by Elizabeth, described himself in his well-known Commentaries (published 1571) as, "un Apprentice de la Comen Ley," and in his Reports of Cases employs the term "Apprentice" to denote Counsel who are not of the Serjeant's degree.<sup>3</sup> The true inference seems to be that by the beginning of the sixteenth century the description "Utter Barrister" had ousted "Apprentice" from its old significance and reduced it to a term of little more than antiquarian interest.

The origin of this new name for Counsel must be sought in the Inns of Court and not in Westminster Hall. The earliest record containing the word "Barrister" appears to be a Minute of the Society of Lincoln's Inn for Trinity Term, 1455, where it occurs in a contracted form, thus: "Duo de optimis Barrer."<sup>4</sup> It also occurs in the Year Book for Easter Term, 1489 (4 H. VII).<sup>5</sup> As already pointed out, it was not used by Sir John Fortescue. It seems to have been originally a purely domestic term used in

obire aut relinquere cameram predictam aliquo modo tunc licebit Thesaur. admittere alterum qui erit apprenticius aut alius quicunque in eandem Cameram a pro suo libito quia est una ex xii cameris pro Magistris de Banco."

<sup>1</sup> D. 231, 277, 320. In these cases the words are "filius, etc., Mathei Dale apprenticii legis et Medii Templi London Socii," etc.; see also M.T.R. 335, 383, 431 (English).

<sup>2</sup> O.J. 59. A Reader "in Court" means in an Inn of Court.

<sup>3</sup> In one case (*Chapman v. Dalton*) Plowden also uses the word Barrister. In the Prologue to his Commentaries he mentions only students, Serjeants, and Counsellors at the Barre. In Sir James Dyer's Reports the term "Apprentice" occurs once, "Barrister" not at all (C.J.C.P. 1559, pub. 1585). As late as 1660, Edward Bagshaw (of the M.T.), a former Reader, described himself in his "Vindication" as "Apprentice of the Common Law" (see *post*, p. 341).

<sup>4</sup> Black Bks. II, 26.

<sup>5</sup> Fo. 7: "Et fuit argue per les Barresters."

the Inns of Court to describe those junior members who took part in the exercise of mooting. The moots were conducted in imitation of the procedure in the Court of Common Pleas, and those who argued the cases were stationed at a bench which seems to have represented the Bar of that Court. The more junior students being placed innermost were called "Inner Barristers," while those more advanced in continuance and study, sitting outermost, were called "Utter Barristers."<sup>1</sup> Thus the word "Inner," as used in this connection, has no relation to the modern phrase "called within the Bar," denoting the status of a King's Counsel. Further, it seems beyond doubt that the degree of Utter Barrister did not of itself at this time, or, indeed, until a much later date, entitle the person called to it to audience in the Courts at Westminster. The Judges exercised a jealous control over the right of appearing as advocate in the King's Courts, and from time to time regulations were made by them prescribing the period of time which must elapse before the right was exercised. These will come under consideration hereafter. It will be noticed that the description is "Utter Barrister" or "Master of the Utter Barre"; there is no sign as yet of the modern term "Barrister-at-Law," which will not emerge till the close of the seventeenth century.

There are no entries of calls to the Bar in the early Minutes of either Inn. These records, therefore, afford no information as to how or by whom such calls were made. Light upon the subject comes, however, from the anonymous writer on the Middle Temple Society, who is confirmed in what he states by the Bacon Report to King Henry VIII. His account is as follows:

"The utter-baristers are they which after they have continued in the house by the space of five or six yeares and have profited in the study of the Law are called by the elders or benchers to plead argue and dispute some doubtful matter in the law before certain of the same benchers in terme time or in the two principall times in the yere of their lernynys which they call Grand Vacations and the same manner of argument or

<sup>1</sup> See Bacon Report, Waterhous, 544. Later, "Inner Barrister" becomes the regular description of students of the M.T. under the degree of the Utter Bar: cf. the Inner Temple description, "Every Utter barrister and Inner barrister to go furth to Motz," A.P. I, 36 (June 7th, 1546). In I.T.R. I, 143, "Utter" and "Inner" are wrongly rendered "Outer" and "Junior." Cf. also 23 H. VIII, c. 5, § 10, "Admitted in one of the four principal Inns of Court for an Utter Barrester," and 21 Jac. I, c. 23, § 6, "An Utter Barrister of three yeares' standing at the bar of one of the four Inns of Court."



disputations is called motyng : and this making of utter-baristers is as a preferment or degree given him for his lernyng." <sup>1</sup>

Probably at this period the power of calling to the Utter Bar was likewise vested in the Reader for the time being, and exercised by him at his Reading. Later, the Reader is found possessed of this privilege, one, too, which has to be limited in its use.

Dinner (a midday meal) and supper were taken in common in the Halls of the Societies. At the Middle Temple the junior members in Clerks' Commons messed together, and waited upon the others who had passed that stage. Masters' Commons were divided into three companies : (1) those who were not Utter Barristers, (2) Utter Barristers, and (3) Benchers. From this it appears that they messed at separate tables.<sup>2</sup> There was a difference in the food supplied for the junior members, these receiving smaller portions than were allowed to those in Masters' Commons, but paying less.<sup>3</sup> Moreover, the juniors were exempted from paying pension money, an annual charge of 3s. 4d. each, borne by those in Masters' Commons. Mr. Inderwick states that in the Inner Temple Hall there was a fifth table, called the yeoman's table, at which the clerks of Benchers were accommodated.<sup>4</sup> Some similar arrangement may have existed in the Middle Temple, but there is no mention of it by the anonymous writer. The fare provided, though no doubt plentiful, must have been rough, judged by modern standards. Mutton was the staple meat diet, and there is some evidence that pewter dishes were used at least at the Readers' Feasts.<sup>5</sup> In the Inner House the drinking was from ashen cups till the close of the year 1559, and, probably, similar cups were used at the Middle Temple.<sup>6</sup> Forks, which did not come into use till the time of James I, were still an unknown luxury, and, judging by the annual wage paid to the laundress (6s. 8d.), table linen can have been little used, if at all.<sup>7</sup> At the Inner Temple, the Hall,

<sup>1</sup> See Herbert, 213-214; also Waterhous, 544.

<sup>2</sup> As was the case at the Inner Temple, I.T.R. I, xxxiv, v.

<sup>3</sup> The charge for diet to those in Masters' Commons was £6 10s. p.a.; in Clerks' Commons £5 4s. A portion for 2 in Masters' Commons served for 3 in Clerks' Commons, and one of 3 for Masters for 4 in Clerks' Commons.

<sup>4</sup> I.T.R. I, Intro. xxxv.

<sup>5</sup> A. 12; M.T.R. 24.

<sup>6</sup> I.T.R. I, xxxv. See order substituting "green cuppes both wynter and somer" for "ashen cuppes," February 4th, 1559: A.P. I, 137. At the Middle Temple "the green pots that nowe are used in this House" are referred to in 1615: C. 90; M.T.R. 596.

<sup>7</sup> With this wage compare that of the laundress at Lincoln's Inn, 5s. 4d.; Black Bks. I, 295 (1550).

Parliament Chamber, and Library were strewn with rushes,<sup>1</sup> and no doubt the floors of the Parliament Chamber and Hall of the Middle Temple were similarly covered.

Some interesting light is thrown on the diet supplied at this time in the Inns of Court as compared with the fare at the Universities by a passage in the Life of Sir Thomas More, which recounts how after his resignation of the Chancellorship, he discussed with his family what course they must follow, to be able, in his reduced circumstances, to continue living together.

"I have beene brought up at Oxford," he says, "at an Inn of Chauncerie,<sup>2</sup> at Lincolne's Inn, and in the King's Court, so forth from the lowest degree to the highest and yet have I in yearely revenues little more than one hundred pounds by the yeare at this present left me. . . . By my counsell it shall not be best for us to falle to the lowest fare first. We will not therefore descend to Oxforde fare nor to the fare of New Inn but we will beginne with Lincolne's Inn diet where manie right worshipfull and of good yeares doe live full well; which if we finde not ourselves the first yeare able to maintayne, then will wee the next yeare after go one stepp downe to New Inn fare wherewith many an honest man is well contented. If that exceed our abilitie too then will we the next yeare after descend to Oxford fare where many grave anciente and learned Fathers be conversant continually."<sup>3</sup>

It may thus be inferred that the diet at the Inns of Court, though lacking the luxuries of the King's House, was such that those who enjoyed it lived well and were vastly better off than they would have been at the Universities. In both Inns the Hall of the Society was the centre of the Collegiate life, and the common meeting-place of the members, where matters of ceremony concerning the whole Inn were conducted. In the Middle Temple Minutes there is frequent reference to the "Cup-board," called in the Latin entries *Abacus*. It was a square table at which the Reader stood when he delivered his discourses, and was generally used as a centre of ceremonial observance. Here, also, proclamation was made of matters of importance

<sup>1</sup> Gen. Act. Bk. I, 3, 13, 22, etc.

<sup>2</sup> New Inn.

<sup>3</sup> Roper's Life of More (Utopia, Pitt Press, 1883), xxxi.

affecting members of the House. The Societies of Lincoln's Inn and Gray's Inn also had their cupboards,<sup>1</sup> but not the Inner Temple; where ceremonies took place and intimations were made at the Fireplace in the centre of the Hall or at the Board's end, no doubt the Bench table.<sup>2</sup>

In considering the system of legal instruction prevailing in the Houses of Court, it is necessary to remember that at this early period legal literature hardly existed; books were few and expensive, and there were no reports other than those which now pass under the name of the Year Books. Hence, the instruction at the Inns was chiefly oral and, imparted by disputations and debates, which the junior students attended, at first as hearers only, and later as participants in the discussions. Moreover, as will be seen from the details which follow, the giving of instruction was not confined to the Readers and Benchers, but Judges and Serjeants, former members of the Society, likewise attended at the Readings from time to time, and when present took part in the debates; while even the Utter Barristers of the House played no inconsiderable part in instructing the members of lower degree. During Term time,<sup>3</sup> when the Courts sat in Banc at Westminster, the younger members of the Inns were no doubt expected to attend there and find their best instruction in following and making notes of the arguments of Counsel and the rulings of the Judges. But the Terms were of brief duration and the hours of the sittings few, for Sir John Fortescue states that in his time the Judges only sat in Court for three hours a day, viz. from 8 till 11 in the morning; and never in the afternoon.<sup>4</sup> These attendances at Westminster, though of the first importance no doubt to the young Tudor lawyer who aspired to succeed in his profession, formed no part of the education provided by his Inn. They explain, however, why during Term time the educational activity of the Inns of Court appears to have been somewhat in abeyance, the Readings always taking place out of Term.

<sup>1</sup> Black Bks. I, 273; Pension Bk. I, 51, 154, 204, 205, 220.

<sup>2</sup> Cf. the leavetaking of the Serjeants elect at the two Temple Inns: Middle Temple, 1503 (A. 4; M.T.R. 8); Inner Temple, 1540 (A.P. I, 103; I.T.R. I, 127).

<sup>3</sup> Since the Judicature Act, 1873, the former legal Terms only survive as the periods during which dining takes place in the Inns of Court. The dates varied from time to time. In Cowell's Interpreter (1607) the dates given are Michaelmas, October 9th to November 28th; Hilary, January 23rd to February 21st; Easter, from eighteen days after Easter to Monday after Ascension Day; and Trinity, from Wednesday after Trinity Sunday till Wednesday fortnight after.

<sup>4</sup> De Laudibus Legum Angliæ, c. 51.

For instruction in Law the year was divided into distinct periods, which are thus described in the Bacon Report : <sup>1</sup>

“The whole year amongst them is divided into three parts that is to say the learning Vacation [in the Temple called the Grand Vacation] the Terme-times and the meane or dead Vacation.<sup>2</sup> They have yearly two learning [or Grand] Vacations that is to say Lent Vacation which beginns the first Munday in Lent, and continueth three weeks and three dayes ; the other [Grand] Vacation is called Summer Vacation which beginneth the Munday after Lammas day [August 1st] and continueth as the other ; in these Vacations are the greatest conferences and exercises of study that they have in all the year, for in them these are the orders—First the Readers and Ancients [Benchers] appoint the eldest Utter-Barrister in continuance, as one that they think most able for that Roome to reade amongst them openly in the house during the Summer Vacation and of this appointment he hath alway knowledge about half a year before he shall reade, that in the meantime he may provide therefore ; and then the first day after Vacation, about 8 of the clock he that is chosen to reade openly in the Hall before all the Company shall reade some one such Act or Statute as shall please him to ground his whole reading on for that Vacation and that done doth declare such inconveniences and mischiefs as were unprovided for, and now by the same Statute be [met] and then reciteth certain doubts and questions which he hath devised that may grow upon the said Statute and declareth his judgment therein ; that done one of the younger Utter-Barresters rehearseth one question propounded by the Reader and doth by way of argument labour to prove the Reader’s opinion to be against the Law and after him the rest of the Utter-Barresters and Readers [Benchers] one after another in their ancienties, doe declare their opinions and judgements in the same, and then the Reader who did put the Case indeavoureth himself to confute Objections

<sup>1</sup> Waterhous, 544, 545.

<sup>2</sup> “Vacation” as here used has not its modern sense of a period of rest or leisure, but connotes all the time not included in the ancient legal Terms : “The time which passeth between Term and Term at London” : Cowell, Interpreter (1607).



laid against him and to confirme his own opinion ; after whom the Judges and Serjeants if any present, declare their opinions, and after they have done the youngest Utter-Barrister again rehearseth another Case which is ordered as the other was ; thus the reading ends for that day : and this manner of reading and disputations continue daily two houres, or thereabouts.”

The Bacon Report is a general one dealing with all the Inns, and does not purport to give the exact practice followed in any particular Society. No doubt the manner of conducting the debates upon the Reader's cases varied in the different Houses. The extract just quoted represents the younger members as opening the discussions ; in the Middle Temple, however, this seems to have been done at the Readings by senior Barristers selected for the purpose, and the rôle of the juniors to have been that of listeners only, as appears from the anonymous writer's account of the matter :

“ Furthermore, in the same graund vacations when that one of the elders doth rede and expound an estatute such Utterbaresters as are of long continuance do stand in a place together where as they reherse some one opinion or saying of him that readeth and by all ways of lernyng and reason, that can be invented do impugne his opinion ; and sometimes some of them do impugne it, and some other do approve it, and all the rest of the House give eare unto their disputations ; and at last the Reader doth confute all their sayings and confirmeth his opynion.” <sup>1</sup>

Later, it will be seen that these senior Utter Barristers were regularly elected to perform this office, and acquired a special name by virtue of it.

For Lent Reader it was the custom, as already stated, to choose some member who had read in Summer, and was therefore already a Bencher. Hence the Bacon Report observes :

“ Of those that have read once in the Summer and be Benchers is chosen alwayes one to read in Lent who observeth the like forme of reading as is before expressed in the Summer

<sup>1</sup> Herbert, 215.

vacation : and of these Readers in these vacations for the most part are appointed those that shall be Serjeants."

Thus the natural sequence of promotion in the Profession of the Law at this time was as follows : Clerk, Inner Barrister, Utter Barrister, Reader, double Reader, Serjeant ; and from the Serjeants the Judges were chosen.

Passing on to describe the Moots, the Report says :

" In these vacations every night after Supper and every Fast-day immediately after six of the clock boyer<sup>1</sup> ended (Festival dayes and their evens onely excepted) the Reader with two Benchers or one at the least cometh into the Hall to the cuboard<sup>2</sup> and there most commonly one of the Utter-Barresters propoundeth unto them some doubtful Case, the which every of the Benchers in their ancienties<sup>3</sup> argue and last of all he that moveth ; this done the Readers and Benchers sit down on the Bench in the end of the Hall whereof they take their name, and on a forme toward the midst of the Hall sitteth down two Inner-Barresters and of the other side of them on the same forme two Utter-Barresters And the Inner-Barresters doe in French openly declare unto the Benchers (even as the Serjeants doe at the barr in the King's Courts to the Judges) some kinde of Action, the one being as it were retained with the Plaintiff in the Action and the other with the Defendant ; after which things done the Utter-Barresters argue such questions as be disputable within the Case (as there must be alwayes one at the least) and this ended the Benchers doe likewise declare their opinions how they think the Law to be in the same questions and this manner of exercise of Moting is daily used during the said Vacations."<sup>4</sup>

" This is alwayes observed amongst them that in their open disputations the youngest of continuance argueth first, whether he be Inner-Barrester or Utter Barrester or Benchers, according to the forme used amongst the Judges and Serjeants. And also that at their Motes the Inner Barresters and Utter Barresters doe plead and reason in French and the Benchers in English

<sup>1</sup> A light refreshment served instead of supper.

<sup>2</sup> As to the Cupboard, see pp. 118, 119, *ante*.

<sup>3</sup> Order of seniority.

<sup>4</sup> Waterhous, 545

And at their reading the Reader's Cases are put in English and so argued unto." <sup>1</sup>

There was also in the Middle Temple a less formal system of learning by which the students sitting three and three in company after dinner and supper argued together some debateable point of law. This is described by the writer already quoted as follows :

" One of the three putteth forth some doubtfull question in the law to the other two of his company and they reason and argue unto it in Englishe ; and at last he that putteth forth the question declaryth his minde, also showing unto them the judgment or better opinion of his boke, where he had the same question : and this do the students observe every day through the yere, except festivall days." <sup>2</sup>

For the period of mean vacation, " which," says the Bacon Report, " is the whole time out of the Learning Vacation and Terme," <sup>3</sup> there were further exercises presided over by the Utter Barristers, no Bencher being present.

" Also after the term ended and the two grand vacacons ended, then the young men that be no Utter-baristers do dispute and argue in lawe-Frenche some doubtfull question before the Utter-baristers who at the last do shew their opinions in Englysh thereunto : and this manner of disputations is called meane vacation motes or chapell motes." <sup>4</sup>

For the first two years after admission attendance at the Grand Vacation Readings and exercises appears to have been compulsory, unless pardoned or excused for a fine or payment of some kind. In like manner attendance was also required at the solemn keeping of Christmas, the Society's school of manners. With reference to this the anonymous writer says :

" By the old custome of the house all such as are made fellows of the house, unles they be dispensed withall at their admittance, are compelled to be personally present at two the

<sup>1</sup> Waterhous, 545.

<sup>2</sup> Herbert, 216.

<sup>3</sup> Waterhous, 546.

<sup>4</sup> Herbert, 216.

first grand vacations in Lent after their coming; at two the first grand vacations in Summer after their comyng, two the first Christmases that be solemnly kept after their comyng upon payne of forfeiture of 20/- for every default.”<sup>1</sup>

After passing out of Clerks' Commons the new member seems at this time to have attended these exercises or not, as he pleased, for there was no subsequent compulsion to continue learning.<sup>2</sup> Any member, however, who aspired to become an Utter Barrister was practically under the necessity of attending, for otherwise his “profit” in learning might not be sufficient to ensure his call to that degree.

The Inns of Chancery had before this time become linked with and subservient to the Houses of Court. When and how this came about, as already stated, is shrouded in mystery. But whatever the cause, it was apparently sufficiently ancient to have been lost sight of by the middle of the sixteenth century, for a Minute of the Inner Temple Bench for the year 1561 referring to Clifford's Inn, Clement's Inn, and Lyon's Inn (all subject to that House), alleges that their society had had, used, and enjoyed the Readings of those three Inns of Chancery, and ministered and imparted the knowledge and learnings of the Law to them (not by right of any recited grant but) from a time whereof no memory of man was to the contrary.<sup>3</sup>

This side of the educational work of the Middle Temple Society is next noticed :

“Item that the Myddil Temple doth finde two readers which are utter baristers unto two houses of Chancery; that is to say Stronde Inne and New Inne: which readers do reade unto them upon some statute in the terme time and in the graund vacations: And they of the houses of Chancery do observe the manner of disputations and motyng as they do in the Temple: And their readers do bring eche of them two with him of the Temple and they argue unto it also: And besides this in the graund vacation time out of the four houses of court come two and two to every house of Chancery; and there according to their yeares and continuance of the house that they be of, which they call

<sup>1</sup> Herbert, 214.

<sup>2</sup> *Ibid.* 217.

<sup>3</sup> A.P. I, 146; I.T.R. I, 215.



auncienty, they do argue and reason to some doubtfull matter that is proposed, so that the most youngest doth begyn and the next to him in continuance doth follow; and at last he that readeth to that house of Chancery doth declare his opynion in the matter that is called in question.”<sup>1</sup>

The report to King Henry VIII mentions the times at which these moots were held. In the Inns of Chancery, which were under the two Temple Societies, they began at 3 o'clock in the afternoon, while in those subject to Lincoln's Inn and Gray's Inn they were held between 9 and 12 in the morning.<sup>2</sup>

It thus appears that at the earliest time of which there is record the system of teaching Law in the Temple was eminently practical. As a training for advocacy in Court it was certainly more thorough, for those who took advantage of it, than any system which has prevailed in modern times. It is evident, too, that the Benchers took an active part in the Moots held in the Temple as Masters of the craft, and regarded it as a duty incumbent upon them to assist the junior members of their House to become adequately equipped for their future work in the Courts, and able to maintain and carry on the best traditions of the profession of the Law.

Each of the Temple Societies now possesses a valuable Library, but that was not the case when the anonymous writer penned his description of the Middle Temple in the reign of Henry VIII. In fact, at that time, that Society had none.

“They now,” he writes, “have no library so that they cannot attaine to the knowledge of divers learnings, but to their great chardges by the buying of such bookes as they lust to study. They had a simple library in which were not many bookes besides the law and that library by meanes that it stood allways open, and that the learners had not each a key unto it, it was [at] last robbed of all the bookes in it.”<sup>3</sup>

As will appear hereafter, when the Society again acquired a library the expedient was adopted of having the more valuable books chained.

The Inner Temple Society had been more fortunate in preserving their books. A library of that Inn is mentioned as

<sup>1</sup> Herbert, 216, 217.

<sup>2</sup> Waterhous, 545.

<sup>3</sup> Herbert, 222.

early as June 29th, 1506, when two members were allotted new chambers under it (*sub librario*).<sup>1</sup> In November, 1530, Thomas Audley, then Speaker of the House of Commons (*Prolocutor Parliamenti*), was authorized to open a door into it from his own chamber, provided this did not prove a nuisance to other members.<sup>2</sup> The contents of this library must, however, have been meagre, for there was no regular librarian, the care of the books being a subsidiary duty of the Chief Butler.<sup>3</sup>

There were daily services in the church, three masses being said, one after the other, in the morning; the first commencing at 7 o'clock. On festival days matins were solemnly sung. The stipends of the officiating clergy were provided by the Lord Prior of St. John's, but the members of the Temple Societies contributed voluntary offerings on eighteen days in the year, which by custom were 1*l.* per day; for the writer on the Middle Temple states, "so that the chardge of each of them is 18*l.*"<sup>4</sup> On January 30th, 1519, the Inner Temple ordered a levy on the members of that House to raise a sum of 70*s.* for new organs for the church.<sup>5</sup>

There appears to be no evidence at this time of the number of clergy employed in the Services. At the date of the suppression of the Order of the Temple a Prior and thirteen secular chaplains were attached to the church. The Hospitallers at first reduced the number of chaplains to eight.<sup>6</sup> A clerical subsidy Roll of the year 1377 (2 Richard II) shows that the principal Priest was then called the Master of the New Temple, and had under him four chaplains.<sup>7</sup> Subsequently the number of chaplains seems to have been still further reduced, for, as will appear later, the Statute of 1540, which transferred the Temple property from the Hospitallers to the Crown, only mentions the Master and two

<sup>1</sup> A.P. I, 2; I.T.R. I, 6.

<sup>2</sup> A.P. I, 82; I.T.R. I, 97. No doubt this was the door ordered (June 15th, 1553) "to be closed uppe for the safegard of the boks as shal be ther brought and layd for the mayntynance of the lernynge of the Lawes of the realme": A.P. I, 118; I.T.R. I, 169.

<sup>3</sup> I.T.R. I, Intro. xlv.

<sup>4</sup> Herbert, 221; see also A.P. I, 129; I.T.R. I, 191.

<sup>5</sup> A.P. I, 30 (*Novis organis in ecclesia*).

<sup>6</sup> Camden Society, No. 65, p. 202. Account of income and disbursements of Hospitallers in England, 1338. The maintenance of these chaplains is justified "prout ordinatum est consilium totius regni pro animabus fundatorum dicti Novi Templi et alia[rum] possessionum alibi."

<sup>7</sup> Record Office: Clerical Subsidy Misc. Exch. Q.R. Dioc.  $\frac{42}{4a}$ . This is the first appearance of the term Master of the N.T. as applied to the principal Priest of the church.

chaplains in connection with the church. Information is also lacking as to the state of the building upon which repairs must have been executed by the Lord of St. John's from time to time. As the ancient ritual still continued, the internal appearance of the church may have been much the same as in the days of the Knights Templars, though probably the services were conducted in a humbler fashion than formerly, and lacked the imposing splendour with which the devotion of so rich an Order must have invested them. That the building was used for other than religious purposes, and some which its founders can never have contemplated, appears from the following statement of the anonymous writer already quoted :

"Item they have no place to walk in and talk and confer their learnings, but in the church : which place all the terme times hath in it no more quietnesse than the pervyse of Pawles, by occasion of the confluence and concourse of such as are suters in the law." <sup>1</sup>

Probably at this early period the regular time-pieces of the Temple were sundials, but the Inner Temple Records contain evidence of a clock being set up to strike every hour ; perhaps on the church, for there was conference about it in the year 1519 with the Master of the Temple. By December, 1520, a sum of 54s. 3d. had been collected there "for the churche for the klok and oder thynges." <sup>2</sup>

At this time the members of the Temple Societies do not seem to have worn any distinctive costume.

"They have no order for their apparell ; but every [one] may go as him listeth, so that his apparell pretend no lightness or wantonnesse in the wearer ; for even as his apparell doth shew him to be, even so shall he be esteemed among them." <sup>3</sup>

There is no mention in the early minutes of the gowns and caps which later became a frequent cause of contention between the Benchers and the students of the Inns.

The existing Records of the Societies throw no light on the numbers in residence at the Temple during the reign of

<sup>1</sup> Herbert, 217.

<sup>2</sup> A.P. I, 30, 57 ; I.T.R. I, 45, 56.

<sup>3</sup> Herbert, 222. As to the general regulation of dress, see statute for "Reformacyon of Excesse in Apparayle," 24 H. VIII (1532), c. 13, § 3.

Henry VIII. It is evident, however, that they were increasing and causing some overcrowding of the available accommodation, for on June 18th, 1521, the Middle Temple Benchers found it necessary to order that not less than two were to be admitted to a chamber in the House.<sup>1</sup> It appears from the early Minutes that the Collegiate life of the Societies was much interrupted by sickness. In 1506, several servants of the Middle Temple died of the Plague; the Summer Reading was abandoned, and the members released from attendance during the following Christmas Vacation.<sup>2</sup> The Inner House was likewise affected by this visitation, and its members scattered for a time.<sup>3</sup> In 1507, the Plague claimed a new victim at the Middle Temple: Roger Taillard, a member, died in the House and, in consequence, the whole company left the Inn.<sup>4</sup> At the beginning of Easter Term, 1513, a member in Clerks' Commons died of the sickness in the Inner Temple, and Commons were broken up till the Feast of the Ascension. In August, the second Butler died, and the members were discharged from keeping Commons. Michaelmas Term also proved abortive, for the Plague continuing the Society adjourned till the following Hilary Term.<sup>5</sup> At the Middle Temple also this Michaelmas Term was not kept. The record says, "bycause of deth."<sup>6</sup> In 1515, the Reader elect for Lent at the Inner Temple was stricken by the sickness,<sup>7</sup> while in 1517 the Plague stopped the Autumn Reading there, and by advice of the King's Council Michaelmas Term was adjourned to the Octaves of St. Hilary.<sup>8</sup> At the Middle Temple Michaelmas Term seems also to have been given up this year, for no parliament was held there after the 8th of July until the ensuing February.<sup>9</sup> In 1521, both Inns again suffered from a new outbreak of the sickness.<sup>10</sup> Enough has been said, however, to show how seriously the work of the Societies was interfered with by these recurring visitations. Flight seems to have been the favourite means of protection, the very air being regarded as infected. This

<sup>1</sup> A. 40; M.T.R. 66. Supplemented (May 8th, 1551) by an order that any fellow who would not suffer another admitted to his chamber by the Treasurer to come into it, should forfeit his own interest: D. 2; M.T.R. 80.

<sup>2</sup> A. 8, 9; M.T.R. 16, 18.

<sup>3</sup> A.P. I, 3; I.T.R. I, 7.

<sup>4</sup> A. 11 (*ab hospicio recesserunt*); M.T.R. 22.

<sup>5</sup> A.P. I, 17, 18; I.T.R. I, 27, 28, 29.

<sup>6</sup> A. 23; M.T.R. 42.

<sup>7</sup> A.P. I, 21; I.T.R. I, 34.

<sup>8</sup> A.P. I, 26; I.T.R. I, 40, 41.

<sup>9</sup> A. 31; M.T.R. 54.

<sup>10</sup> A. 41; M.T.R. 69; A.P. I, 61; I.T.R. I, 66.



practice of avoiding the danger by fleeing from it is noticed by the anonymous writer on the Middle Temple, who deplores the interruption of legal studies thereby occasioned.

"If it happen," he says, "that the plague of pestilence be anything nigh their House every man goeth home into his country which is a great loss of learning for if they had some house nigh London to resort unto they might as well exercise their learning [there] as in the Temple untill the plague were ceased." <sup>1</sup>

But no such house was procured, and, as will be seen hereafter, this "usage in time of pestilence" long continued in both Inns.

Among the persons joining the Societies about this time are found dignitaries of the Church and members of the Order of the Hospital. Thus, "Master Bolles of Seynt Johns," in November, 1508,<sup>2</sup> and Richard Bere, Abbot of Glastonbury, in November, 1520,<sup>3</sup> were admitted members of the Middle Temple on terms to be pardoned all vacations and offices, and allowed to be in or out of Commons as they pleased. In like manner the Inner Temple admitted in May, 1510, John Birchenshaw, Abbot of Chester,<sup>4</sup> and in July, 1519, Sir John Babington, Kt. of the Hospital, Preceptor of Yeveley and Barowe, in the County of Derby;<sup>5</sup> while a later entry in the Books of the Middle Temple shows that Master Frankleyn, Dean of Windsor, was also a member of that Society, for in May, 1522, he was released from his membership on account of old age for a payment of £3.<sup>6</sup> Why ecclesiastics should have desired to join Societies devoted to the practice of the Common Law is not apparent; but, as will be seen subsequently, many eminent clergymen in later times were made honorary members of the Temple Inns.

In one case during the reign of Henry VIII there is evidence of a competition between the two Houses to secure the same entrant. The Inner House prevailed, and a Latin entry in their Minutes relative to the matter, translated, is as follows: January 29th, 1533; Admission of Henry Whyght of "Lyons In" at the instance of Thomas Whyght his brother; And he is pardoned all offices vacations and all other charges what-

<sup>1</sup> Herbert, 222.

<sup>2</sup> A. 13; M.T.R. 25.

<sup>3</sup> A. 37; M.T.R. 62.

<sup>4</sup> A.P. I, 11; I.T.R. I, 18.

<sup>5</sup> A.P. I, 32; I.T.R. I, 48. In July, 1521, Sir John was admitted to a chamber, "*juxta finem orientalis aulæ*": A.P. I. 60.

<sup>6</sup> D. 7; M.T.R. 86.

soever (pensions only excepted) and has licence to be at Clerks' Commons for as long as he will and to be out of Commons at his pleasure otherwise the aforesaid Henry would be admitted to the Middle Temple at the instance of Master Inglefield one of the Justices of the Common Pleas, where the said Henry was promised to have like liberty; wherefore it is granted to the same Henry that he may freely and quietly enjoy the aforesaid liberties in form aforesaid.<sup>1</sup>

The system of discipline in the Societies is thus described by the anonymous writer on the Middle Temple:

"There is among them no certaine punishment for offences; but such offences and misdemeanours as are committed are punished by the judgment of the elders or benchers; who punish the offender either by payment of money, or by putting him forth of Commens; which is that he shall take no meate nor drynke among the fellowship, untill the elders list to revoke their judgment."<sup>2</sup>

In illustration of this may be cited the case of John Lucas, of the Inner Temple, regarding whom, on May 25th, 1533, the Benchers of that Inn made the following order:

"Itt is agreyd and ordered in thys present parleament that for dyverse offences and contempys by John Lucas commytted and don and for that he dyd dysobey the Reder and others the Benchers of thys Howse And also for as moch as he dyd confederat wyth dyverse gentylmen of thys Company and by hys meanes and exhortation caused a gret sort of them to goo wyth hym wylfully out of Comyns and seyde that they wold set uppe a nother Howse of Court whereby the vacasyon last past was lyke to have ben broken uppe and nat kepte and also spake dyverse and many hauty and unfyttyng wordes, Contrary to the good orders and rules of thys Howse to the most parleyst ensample tha moche (*sic*) hathe ben sen, that the seyde John Lucas shall

I.T.R. I, 105. The following extract is from the original record: "Alioquin predictus Henricus admissus esset in Medio Templo ad instancia Magistri Inglefyld unius Justiciariorum Domini Regis de Comuni Banco in quo predictus Henricus pollicitus est habere consimilem libertatem," etc.: A.P. I, 88. Thomas Inglefield was Reader of the M.T. in 1520, Serjeant in 1523, and a Justice of the C.P.'s in 1526. See A. 36; M.T.R. 61; Foss, V, 159.

<sup>2</sup> Herbert, 220.

paye £5 to the Company for hys fyne in that behaulf and yf he refuse so to doo then to be put out of Comyns and nat to lye within the Howse." <sup>1</sup>

On the whole, however, despite some few cases of insubordination,<sup>2</sup> the life of the Societies seems to have been orderly at this time.

Probably because the Reader's office was a position of honour it became customary for him to extend hospitality during the period of his reading to the other members of his Inn. He kept a special table in the Hall, and from time to time supplemented the usual fare at other tables with extra dishes at his own charge, which are later called "exceedings." Further, during the Reading, a special entertainment was given, called the Reader's Feast, to which he had the privilege of inviting guests not members of the Society.<sup>3</sup> Originally the cost of this Feast seems to have been borne by the Inn, though no doubt the Reader was not precluded from augmenting from his own liberality the provisions allowed by the House. The popularity of a free expenditure must have been a powerful stimulus to extravagance, and already in the early years of Henry VIII the expenditure on this Feast was perturbing the ruling authorities of the Inns. Venison was a staple luxury at these Feasts, especially during the Summer Reading, and in a Middle Temple Minute of July 4th, 1513, there is the following reference to this matter:

"Memo. It ys agreed by the Company that for as moche as the house of the Middle Temple is and hath byn and also is lykely for to be gretly charged by reason that the Reder that shall rede in the Somer Vacacon causyth many buckes yn to the said Temple to the grete costes and charges of the Company of the seid Temple therefor yt ys agreed by the seid Company, that yf there be send twelve buckes [they shal be] to the charge of the seid Company; and as many buckes as shal be sende to the seid Temple above the numbre of twelve buckes to be to the charge of the Reder for the tyme beyng." <sup>4</sup>

<sup>1</sup> A.P. I, 86; I.T.R. I, 102.

<sup>2</sup> See A. 21, 25, 44; M.T.R. 40, 45, 73.

<sup>3</sup> As the office of Reader admitted the person who discharged it to a higher status in the profession this feast may be said to have been analogous to the entertainments given in the Universities by doctors on attaining that degree: see as to these, Rashdall's Universities of the Middle Ages, I, 231.

<sup>4</sup> A. 21; M.T.R. 42: see also D. 2; M.T.R. 80 (May, 1551). Cf. Lincoln's

Later, in view no doubt of an increasing membership, this number was raised to fifteen bucks in 1556; and in 1567 the then Reader, Master HIPPESLEY, was allowed thirty, the number also conceded to his successors, Mr. POPHAM, in 1568, and to Mr. PHETIPLACE, in 1570, after which year the Minutes are silent upon the subject.<sup>1</sup> Similar orders were made in the Inner Temple. There, in January, 1544, the number of bucks and deer to be allowed a Reader in the Summer Vacation was limited to twenty; and auditors who allowed more, without the special assent of the parliament in the term time, were themselves to bear the charges.<sup>2</sup>

Perhaps on account of the expenses incident to the office, evidence is not wanting even at this early date of a disinclination to undertake the duties. In illustration of this may be cited the case of Master COCK, elected a Bencher of the Inner Temple in 1541.<sup>3</sup> Chosen Summer Reader in 1545, he accepted office, but, to the great scandal of the Society, did not read. For this he was fined 100 marks on November 2nd, and the question of his expulsion adjourned for further consideration.<sup>4</sup> On May 30th, 1546, the Inn nominated another Summer Reader, at the same time ordering that the default of Master COCK be declared "to the King's Majestye and to the Quene's grace," and, thereupon, further order taken for the same.<sup>5</sup> Henry VIII, whose interest in the Inns of Court is shown by the Report which he caused to be made to himself on their constitutions and practice, was certainly not a Ruler to be trifled with, as Master COCK seems to have realized, for a week later it is minuted (June 7th) that the substitute shall not read this summer, COCK having offered and promised faithfully to do so, "all excuses leid asyt."<sup>6</sup>

This year the Benchers of the Inner Temple had deemed it

Inn, June 23rd, 1513. Agreed by the Bench "that none of the same Benche which shall rede in Hervest Vacacon from hensforthe shall in any wise charge the Company of Lincoln's Inne over the nombre of xii bukkes so that iff it be the plesure of the same Reder to have moo then be to be at the charge of them that excedith the saide nombre as well for the reward as for the bakying": Black Bks. I, 172.

<sup>1</sup> D. 78, 81, 90; M.T.R. 160, 164, 172. No doubt because stewards had been chosen to bear the charges: see *post*, p. 179.

<sup>2</sup> A.P. I, 34; I.T.R. I, 139.

<sup>3</sup> A.P. I, 105; I.T.R. I, 129.

<sup>4</sup> A.P. I, 33, 34; I.T.R. I, 139, 140. Cf. Fuller's case: He was fined and discharged from the Company, October, 1550; but reinstated May, 1552 (I.T.R. I, 158, 164).

<sup>5</sup> A.P. I, 36; I.T.R. I, 142.

<sup>6</sup> A.P. I, 36; I.T.R. I, 143. COCK again refused to read as Lent Reader some years later, and was fined £40: see A.P. I, 119; I.T.R. I, 172 (1553).



expedient to reaffirm the ancient practice of the Inn by ordering that the Reader in both vacations should read at least three full weeks and three days, and be amerced if he failed to do so.<sup>1</sup> An order was made also for the due observance of the Readings at their three Houses of Chancery: Clifford's Inn, Clement's Inn, and Lyon's Inn.<sup>2</sup> To meet the case of Benchers who might in future refuse to read a general order was adopted on January 28th, 1547, that any person called to the Bench to read who refused the duty when elected Reader should lose his place upon the Bench, be immediately remitted to the Bar, and pay for his fine £40; <sup>3</sup> further, on the 22nd of October following, Master Thomas Saunders, who had been chosen Reader in the preceding Summer Vacation and had refused to read to the "gret slander and detryment" of the House, was so fined, "discharged of the Bench and remytted to be at the Utter barresters' board and as a Utter barrester to be reputed."<sup>4</sup>

In the Inner House the prospective burden of the Readership seems to have caused many gentlemen to decline, also the honour of the Bench, and penalties were imposed to check this. In July, 1541, the Treasurer, pursuant to an order of the Benchers, called Messrs. Rendall, Cock, and Bassett to the Bench. Cock accepted the call and came; Bassett prayed for longer time, and on paying five marks (£3 6s. 8d.) was spared for two years; but Rendall refused altogether, whereupon it was ordered that he be put out of the House and fined £20; that his chambers be locked and sealed, and his stuff there to remain until the fine was paid; and if he would come to the Bench he should pay five marks. These dire results did not, however, induce Mr. Rendall to alter his decision, and on January 25th following a further order was made, "that Master Rendall shalbe remytted to the Utter barr and he to have hys stuffe and chamber and to pay four marks for his fynne to the hands of the Treasurer to the use of the Company."<sup>5</sup>

The two years' indulgence does not seem to have satisfied Mr. Bassett, for in 1544 he was again under pressure (November 16th), being commanded to accompany the Benchers on the Bench and read when his turn should come. A fortnight later he was given the option of compounding for a money pay-

<sup>1</sup> A.P. I, 36; I.T.R. I, 142.

<sup>2</sup> A.P. I, 36; I.T.R. I, 143.

<sup>3</sup> A.P. I, 39; I.T.R. I, 146.

<sup>4</sup> A.P. I, 40. Fine later reduced to £20 (A.P. I, 122).

<sup>5</sup> A.P. I, 105, 106.

ment;<sup>1</sup> but did not avail himself of it, for on April 26th, 1545, a final order was made that Master Bassett shall be of the Bench, and give his attendance, and read when his course shall be.<sup>2</sup>

If the Benchers had serious educational duties to discharge, both as Readers and in connection with the Moots, they also enjoyed some privileges. Each Benchers when he read had the right of admitting a new member to the Inn.<sup>3</sup> Further, special chambers were set apart for their use. The first evidence of this comes from a record of the Inner Temple, dated November 25th, 1537, which specifies ten chambers as set apart for the Governors and members associated with them on the Bench.<sup>4</sup> These are identified by the names of the occupiers, which are as follows: Sir William Essex, Kt.; John Baker, Attorney-General (later Speaker and Chancellor of the Exchequer); John Pakyngton; Sir Robert Dormer, Kt.; William Conysby (later a Justice of the King's Bench); Anthony Babyngton; Master Malett; Master Scott; Master Podkyn; and Master Oteley. As will appear hereafter special chambers were also allocated to Benchers at the Middle Temple.<sup>5</sup>

Music formed part of the Christmas entertainment, and there are references in the Middle Temple Minutes to payments to the Minstrels and Harper. In November, 1506, the Treasurer was authorized to agree with the Harper (*Citherator*) about his salary, which he did at 13s. 4d.<sup>6</sup> This remuneration did not long satisfy that musician, for, in 1523, to secure his better attendance in future, it was raised to 20s.<sup>7</sup> Plays also were acted by professional actors, and in 1509 the players (*ludatores*) received 6s. 8d. for their reward. On this occasion 17s. 4d. was allowed in part payment of the Minstrels' salary.<sup>8</sup> At the Inner Temple also an allowance was sometimes made for players (*pro istrucionibus*).<sup>9</sup> There, in 1527, those keeping Commons at Christmas were allowed a boar, a cart-load of coals for fuel, and 30s. for minstrels. In 1544, a sum of 30s. was again allowed, but for the comprehensive purpose of defraying the cost of "a

<sup>1</sup> A.P. I, 112; I.T.R. I, 138.

<sup>2</sup> *Ibid.*

<sup>3</sup> See *post*, pp. 259, 260.

<sup>4</sup> A.P. I, 97; I.T.R. I, 118.

<sup>5</sup> See *post*, p. 150.

<sup>6</sup> A. 9; M.T.R. 18.

<sup>7</sup> A. 45; M.T.R. 75. Harper is here "Citherone."

<sup>8</sup> A. 6; M.T.R. 30.

<sup>9</sup> A.P. I, 67; I.T.R. I, 75.

bore, mynstrells, and a lode of coles ” ; Officers’ Commons being allowed in addition.<sup>1</sup>

Plays in the nature of private theatricals were probably also performed in both Inns by the members, for the Bacon Report states :

“ In this Christmas time they have all Manner of pastimes as singing and dancing, and in some of the Houses ordinarily they have some interlude or tragedy played by the gentlemen of the same House, the ground and matter whereof is devised by some of the gentlemen of the House.” <sup>2</sup>

Such doings, however, are not referred to in the Minutes of the Benchers, and as, at the Temple, they do not seem to have provoked outside comment, no contemporary record of them has been found. Another Inn of Court was less fortunate in this respect, and thus an account has been preserved by the Chronicler, Edward Hall, of a play performed by lawyers during the Christmas of 1526, which, as illustrative of the recreations of the time, is inserted here. This piece was acted at Gray’s Inn, and excited the wrath of Cardinal Wolsey. Hall was himself a member of that Society and twice Reader there,<sup>3</sup> so reliance may be placed upon the story he tells, which is as follows :

“ This Christmas was a goodly disguisyng plaied at Greis Inne whiche was compiled for the moste part by Master Jhon Roo seriant-at-law xx yere past, and long before the Cardinall had any auctoritie, the effecte of the plaie was that lord governance was ruled by dissipation and negligence by whose misgovernance and evill order lady Publike wele was put from governance which caused Rumor Populi, Inward grudge and Disdain of Wanton soveraignetie to rise, with a greate multitude, to expe negligence and dissipation and to restore Publik welth again to her estate, which was so done. This plaie was so set furth with riche and costly apparel with straunge divises of Maskes and Morrishes that it was highly praised of all menne savyng of the

<sup>1</sup> A.P. I, 76, 112 ; I.T.R. I, 89, 139.

<sup>2</sup> Waterhous, 546.

<sup>3</sup> In 1533 and 1540. His Chronicle first appeared in 1542. For the reign of Henry VIII it is of great value, and has hardly received the attention it deserves (*per* Mandel Creighton, D.N.B.).

Cardinall, whiche imagined that the plaie had been diuised of hym and in a greate furie sent for the said Master Roo and toke from hym his coiffe and sent hym to the Flete. And after he sent for the yong gentlemen that plaied in the plaie and them highly rebuked and thretened and sent one of them called Thomas Moyle of Kent to the Flete, but by meanes of frendes Master Roo and he wer delivered at last.”<sup>1</sup>

When, it may be hoped, the unlucky Serjeant also recovered his coif and practice in the Court of Common Pleas.

As will be seen later, games of chance came much into vogue at the Temple as a Christmas diversion in Stuart times, but in the reign of Henry VIII all such forms of amusement seem to have been discouraged. Thus, on July 7th, 1521, by an order in Latin, all the members of the Inner Temple Society were forbidden to play within the House at the game called “shoffe boorde” or “slypgrote” under a penalty of 6s. 8d.; a prohibition which was repeated and extended to dice and cards in April, 1532.<sup>2</sup>

Two early entries in the Minutes of the Inner Temple show that it was customary for the two Temple Societies to exchange hospitalities at Christmas time. The first of these, dated Candlemas Day (February 2nd), 1511, mentions “the two metyng nyghtes in Cristmas when the two Houses mete.”<sup>3</sup> The second, dated All Souls’ Day (November 2nd), 1512, states with reference to one of the Christmas Officers, that

“everye Constable Marshall of thys Compenei from hensforth shall kepe in tyme of Cristmas no moe but three Courts that ys to saey one at that nyghte when the Compenei of the Myddel Yn come to them and a nother when they go to the Myddel Yn and the third at his plesure.”<sup>4</sup>

A Minute of the Middle Temple also refers to “Le Metyng nyghte,” mentioning it as an occasion on which members of the Inn were under a special obligation to attend, though its full significance is not there explained.<sup>5</sup>

<sup>1</sup> Chronicle (Edit. 1809), 719.

<sup>2</sup> A.P. I, 60, 84; I.T.R. I, 63, 100.

<sup>3</sup> A.P. I, 14; I.T.R. I, 22.

<sup>4</sup> A.P. I, 16, 58; I.T.R. I, 25, 58.

<sup>5</sup> A. 39; M.T.R. 66 (May 7th, 1521). Admittances of Masters Kayleway and



In later times the gentlemen of the Inns of Court became much concerned with revels and other entertainments at the royal Court. On three occasions, at least, in the early Tudor reigns they participated in such functions, but apparently only as spectators. The first of these was the marriage of Katherine of Aragon and Prince Arthur, the eldest son of Henry VII, which was celebrated with great pomp at St. Paul's on St. Erkenwald's day (Sunday, November 14th), 1501. The event was honoured at Westminster on the following Thursday by "suche marciall feates, suche valiaunt justes, suche vygorous turneys, such fiercefight at the barryers, as before that tyme was of no man had in remembrance."<sup>1</sup> Members of the Middle Temple Society were present at this festivity, having agreed a fortnight earlier to submit to a levy of 12*d.* per head for a place to see the jousts at the arrival of the Lady Katherine de Espanea at Westminster.<sup>2</sup>

The second occasion was in June, 1509, when in honour of the Coronation of Henry and Queen Katherine "Justes and Turneis" were held again at Westminster on a scale of great splendour. Edward Hall compiled a detailed account of these proceedings and the preparations for them, from which the following extract is taken :

"For the honour and ennobling of this triumphant coronacion there were prepared bothe Justes and Turneis to be doen in the Palaice of Westminster where for the Kynge's grace and the Quene was framed a faire house covered with Tapisstrie and hanged with riche clothes of Arrais, and in the saied Palaice was made a curious Fountain, and over it a Castle : on the toppe thereof a greate croune Emperiall all the imbattelying with Roses and Pomegranetes gilded : and under and above the saied Castle, a curious vine, the leaves and grapes thereof gilded with fine Golde, the walles of the same Castle coloured white and grene losengis And in every losenge either a Rose or a Pomegranet, or a sheffe of arrowes<sup>3</sup> or els H and K gilded with fine gold with

Conyngesby who were excused being in commons except during Christmas, the Feast of the Purification and "le Metyng nyghte," for one "hokeset of good wine" and 10*s.* respectively.

<sup>1</sup> Hall, 503.

<sup>2</sup> A. 1 ; M.T.R. 2. No doubt Templars of the Inner House were also present ; but their existing Records only begin in 1505.

<sup>3</sup> The sheaf of arrows was a badge of Queen Katherine's mother, Isabella of Castile : see Woodward and Burnett, II, 595.

certain Arches or Turrettes gilded to support the same Castle. And the targettes of the armes of the defendants appointed for the saied Justes thereupon sumptuously set, and out at severall places of the same Castle as well the daie of the coronacion as at the said daies of the Justes and Turney out of the mouthes of certain beastes or gargels did runne red, white, and claret wine.”<sup>1</sup>

That Templars were also present at these festivities appears from an entry in the Records of the Inner House, dated Friday, the Feast of the Nativity of John the Baptist (June 24th), 1509, which states that a charge of 16*d.* per head was imposed on all members of the Society within the precincts of the City of London or the suburbs of the same for “lez standyngges” in the time of “le Justes” after the coronation.<sup>2</sup>

The mention by Hall of roses and pomegranates (the respective heraldic emblems of Henry and Katherine) as conspicuous in the decorations at Westminster is of special interest, for in the west window of the Middle Temple Hall may be seen to-day, beside other royal badges, the Tudor Rose (the white rose within the red) and the Pomegranate of Grenada blazoned on ancient glass, which may have been originally erected in the old hall of the Society at the time of this coronation in honour of King Henry and his Queen, and removed at a later date to the positions they now occupy.

The third occasion, when members of the Temple Inns were present at a courtly function, was in February, 1511, when Jousts were again held at Westminster. This time in honour of Queen Katherine who, on the first of the preceding month, had given birth to a Prince “to the greate gladnes of the realme,” which found expression in bonfires and “divers vessels of wyne set for suche as woulde take thereof in certayne streates in London and generall processions . . . to laude God.”<sup>3</sup> For these Jousts the Societies again made levies on their members, the Middle Temple at the rate of 12*d.* each,<sup>4</sup> and the Inner House at 16*d.*<sup>5</sup> They were performed with great splendour ten days later; the King himself taking part in the tilting and holding the field against all comers as the Knight *Cure Loial* with three “aydes,” the Earl of Devonshire as *Bon Voloire*, Sir Thomas Knevet as *Bon Espoir*, and Sir Edward Neville as

<sup>1</sup> Chronicle, 510, 511.

<sup>2</sup> A.P. I, 9; I.T.R. I, 14.

<sup>3</sup> Hall, 516.

<sup>4</sup> A. 19; M.T.R. 36.

<sup>5</sup> A.P. I, 13; I.T.R. 21.

*Valiant Desire*.<sup>1</sup> But the national joy proved short-lived, for on the 22nd the young Prince was dead.

By the close of the reign of Henry VIII more than two centuries and a quarter had elapsed since the suppression of the Order of the Temple, and many changes must have taken place during that time in the premises the Knights had occupied. For one thing, there must have been much building in the ample space the "New Temple" afforded for the purpose. Otherwise, there could not have been accommodation for the numbers Sir John Fortescue mentions in his account of the Inns of Court.<sup>2</sup> Probably such lodgings as the Apprentices of the Law had erected for themselves were constructed chiefly of wood and plaster, after the fashion of other London houses of the Middle Ages, and it may have been with reference to such buildings that the Chronicler of St. Mary's Abbey wrote of the rebels of 1381, "Jetteront les measons a la terre."<sup>3</sup> Sir William Dugdale considered the Inner Temple Hall as it stood in his day to date from the reign of Edward III,<sup>4</sup> though if it had undergone reconstruction it seems more probable this took place in the next reign, after havoc wrought by Wat Tyler and his fellows. However that may be, the first important building operation by lawyers in the Temple, of which there is record, was the rebuilding of the Great Gate of the Middle Temple Society, which gave access to and from Fleet Street. This was carried out by Sir Amyas Paulet, Kt., who was elected Treasurer of the Inn on July 4th, 1520, and in the following July at the special instance and request of the whole Fellowship agreed to discharge the duties of that office a second year.<sup>5</sup> The contemporary Minutes of the Benchers contain no reference to this matter; all that is known about it comes from the *Life of Wolsey*, by George Cavendish, his gentleman Usher. Probably the work was carried out by Sir Amyas at his own expense, for there is no record of any levy upon the members to meet the cost, and the cordiality of his election to a second term of office seems to suggest some benefit conferred by him upon the Society. He did not follow law as a profession, and nothing is known of his early connection with the Inn. He had probably joined it as a young man, as many youths of position then did for the educational advantages an Inn of Court afforded.<sup>6</sup> His residence in

<sup>1</sup> Hall, 517.

<sup>2</sup> See *ante*, p. 97.

<sup>3</sup> *Ante*, p. 90.

<sup>4</sup> *Origines Juridiciales*, 146 (pubd. 1666).

<sup>5</sup> A. 37, 40; M.T.R. 61, 67.

<sup>6</sup> There was no rule of the House requiring the Treasurer to have been a

the Temple at this time appears to have been due to an ancient grudge entertained against him by the Cardinal, now at the height of his power. Cavendish relates that Wolsey, when a young man, acted as tutor to the sons of the Marquis of Dorset, who, in reward for his services, presented him to a living in the diocese of Bath and Wells. While attending to take possession he incurred the displeasure of Sir Amyas Paulet,<sup>1</sup> "dwelling in the country thereabouts," who made so bold as "to set the schoolmaster by the feet during his pleasure." This indignity of the stocks was neither forgotten nor forgiven by the sufferer. So the narrative proceeds:

"When the schoolmaster mounted the dignity to be Chancellor of England he was not oblivious of the old displeasure ministered unto him by Master Paulet, but sent for him, and after many sharp and heinous words, enjoined him to attend upon the Council until he were of them dismissed and not to depart without licence, upon an earnest pain and forfeiture; so that he continued within the Middle Temple the space of five or six years or more. Whose lodging there," continues Cavendish, "was in the Gatehouse next the street which he re-edified very sumptuously garnishing the same on the outside thereof with Cardinals' hats and arms, badges and cognizances of the Cardinal, with divers other devices in so glorious a sort, that he thought thereby to have appeased his old unkind displeasure."<sup>2</sup>

From later records it appears that the Gatehouse as thus reconstructed was built of brick upon the ancient stone foundation and included at least one tower, two chambers, one above the other, of equal value, and a messuage or tenement with a "kitchine and other buyldinges."<sup>3</sup> Had this Gatehouse survived, judging by other similar buildings of this period, it

Reader. Three of the Treasurers of Elizabeth's reign never read: Matthew Smith, Edward Ameredith, and Myles Sandys.

<sup>1</sup> What the conduct was which landed Wolsey in the stocks is a matter of some doubt. Cavendish says he did not know. The story generally accepted is that Wolsey through excess in drink became disorderly at a fair and was thus punished in consequence. But as this tale is first mentioned by Sir John Harington (born 1561), who could not himself have known the facts, and gives no authority for the statement, it should be received with some reserve: Wolsey's Life (Singer, 1825), I, 7, note.

<sup>2</sup> *Ibid.* I, 6, 7.

<sup>3</sup> D. 408; I.T.R. II, 354.



might have proved of great interest, but unhappily it was pulled down about the year 1684, when Tudor architecture was regarded with little respect, to make way for the present classical structure of Sir Christopher Wren.<sup>1</sup>

The entries in the Minutes of the Middle Temple of admissions to chambers at this time, throw little light on the buildings in the Inn. Usually the chamber to which admittance is granted is described by the name of the present or some former occupier as "Chaunterelle's chamber" or "Mordaunt's office."<sup>2</sup> In a few cases the chamber or building has a name peculiar to it, such as "le Maunse" or "Maleperdo."<sup>3</sup> Chambers are also referred to as over "le Cloyster" or under "le Vyne."<sup>4</sup> That some building was going on in the Inn appears from such descriptions as "the lowest chamber newly built, the upper chamber in the new buildings, the highest west chamber of the chambers newly built, "le nouvelle edifices" and "lez nouvelles buyldynges."<sup>5</sup> These descriptions, however, are too vague to afford any clue to the actual position of the chambers mentioned, except, perhaps, the chamber over the Cloister. As will appear later, all such chambers were regarded as chambers of the Middle Temple.

Turning to the early Records of the Inner House a similar difficulty is encountered in locating some of the buildings there mentioned, for names occur which have entirely dropped out of use; such as a chamber in the garden called "le Olyvannte," in "le Nutgardyne," in "le Talbot," in "Barentyne," in "le Bastelle" in the outer Temple, and in "le Half Bastell."<sup>6</sup> It was, however, the practice of the Inn, at a very early date, to occasionally name a building after the Treasurer or other member of the House who had superintended or been responsible for its erection. Thus such names are found as "Barington's Rents," "Pakyngton's Rents," and later, "Bradshaw's Rents."<sup>7</sup> Pakyngton's Rents are stated to have been built between the Library and Barington's building;<sup>8</sup> these chambers seem to have been in line with the Hall on the south side of the churchyard and opposite the church; and Bradshaw's Rents to have

<sup>1</sup> See *post*, pp. 536, 537.

<sup>2</sup> A. 37, 38, 40; M.T.R. 63, 67.

<sup>3</sup> A. 4, 38; D. 7, 10; M.T.R. 7, 63, 86, 89.

<sup>4</sup> A. 15; D. 10; M.T.R. 28, 90.

<sup>5</sup> A. 43, 44, 47; D. 5, 12, 13; M.T.R. 71, 73, 76, 83, 92, 94.

<sup>6</sup> A.P. I, 12, 26, 32, 61, 71, 75; I.T.R. I, 19, 40, 48, 66, 83, 88.

<sup>7</sup> A.P. I, 88, 132; I.T.R. I, 106, 197.

<sup>8</sup> A.P. I, 88; I.T.R. I, 106.

occupied the site of the modern building on the east side of Tanfield Court, the name Tanfield having supplanted that of Henry Bradshaw, because Sir Laurence Tanfield (Chief Baron of the Exchequer, 1607-25) subsequently had his residence there.<sup>1</sup>

The position of "le Bastelle" in the outer Temple can now only be matter of conjecture. Mr. Inderwick thought it was a square or hexagonal tower on ground north of the churchyard,<sup>2</sup> and as an ancient wall of the Templars is known to have existed in that neighbourhood, the Bastelle may have originally formed part of a fortification which protected the Knights' property at this point. The words "outer Temple" in this connection can hardly refer to ground on the west side of Middle Temple Lane, for the Inner Temple Society are not known to have held or claimed any land or buildings there. Fig Tree Court is still a name in use in the Temple, and in February, 1515, the tree from which the name is derived was in existence, for in that month John Rudhale was assigned a share in his father's chamber *juxta ficum*.<sup>3</sup>

One other building operation in the Inner Temple is noticed in an entry dated December 21st, 1523, which acknowledges the receipt from "Rauf Swyllington Treseror of the Inneer Temple" of £40, *videlicet* £20 money of the Inn and £20 money of the "Lorde Seynt Johnes toward the makying of the wall upon Themes."<sup>4</sup> This wall was no doubt erected to fence off the Temple ground from floods in the river, and the admission entry of Brian Tuke on the same folio states that he was excused all other charges because he promised to contribute towards the stone wall against the water when (such was his prudence) it was built, and not before.<sup>5</sup> The necessary money was raised by contributions from members collected upon a roll.<sup>6</sup> At what date the work was completed does not appear, but it seems to have been finished at least by the year 1533, for a Minute of February 5th of that year, in acknowledging the services of Master John Pakyngton, mentions (*i.a.*) his "many and sundre

<sup>1</sup> I.T.R. I, Intro. xc.

<sup>2</sup> *Ibid.* xxx.

<sup>3</sup> A.P. I, 22. "Idem Johannes Rudhale assignatus est in Cameram juxta ficum cum predicto Willielmo patre suo." The father was created a Serjeant-at-Law in 1521 and "at hys departure lafte a silvour sponer for the borde of the benchers for a remembraunz": I.T.R. I, 62, 63.

<sup>4</sup> A.P. I, 67; I.T.R. I, 74.

<sup>5</sup> A.P. I, 67; I.T.R. I, 75.

<sup>6</sup> A.P. I, 68, 74; I.T.R. I, 77, 85, 86.

payns in the buyldyng of the walle betwene the Thamez and the garden of the seyde Temple." <sup>1</sup>

The names of Pakyngton and Bradshaw are no longer attached to buildings in the Inner Temple. This seems regrettable, for they were both interesting figures in the early history of the House. John Pakyngton was Lent Reader in 1519, and read a second time in 1527. He was Treasurer of the Inn for five years, from 1528 to 1533, and as a builder rendered valuable service.<sup>2</sup> He was in high favour with Henry VIII and received numerous grants of land from that King. One of the proofs of his master's favour was a patent conceding him the liberty of wearing his hat in the royal presence and exempting him from taking knighthood if made a Baron of the Exchequer or Serjeant-at-Law.<sup>3</sup> Eventually, however, the penalty of Knighthood overtook him, for Henry knighted him in 1545. In his later years he appears to have acted as a Judge in Wales. His services to the Inn were handsomely acknowledged at the termination of his Treasurership in a resolution which thus concluded, "and the seyde Companey for his greate dyligens labors and payns takyn for the greate profet of the House of the seyde Temple gevyth unto hym hartey thanks." <sup>4</sup> Henry Bradshaw also played a conspicuous part in the life of the Inner Temple. He was Autumn Reader in 1536, Solicitor-General in 1540, Lent Reader in 1542, Attorney-General in 1545, and Treasurer of the Society 1544-47. In 1552 he was appointed Chief Baron of the Exchequer, but died in the following year.<sup>5</sup> He has been commemorated in the new glass inserted in the south bay window of the modern Inner Temple Hall.

The severance from Rome and the confiscation of the Monastic estates in England which were carried out by Henry VIII, were accompanied by one change which intimately concerned the two legal Societies of the Temple. The heavy hand of that masterful monarch fell with crushing force upon the Order of St. John of Jerusalem. During two hundred years in the Island of Rhodes, the Knights, against the Moslem Power, had valiantly upheld the cause of the Cross, but at last, in 1525, they were forced to capitulate to the conquering Turk. In their extremity

<sup>1</sup> A.P. I, 88; I.T.R. I, 106. His services in "zelyng of the Halle" were also acknowledged.

<sup>2</sup> A.P. I, 32, 75, 78-88.

<sup>3</sup> St. Papers Dom. 20 & 21 H. VIII; Cal. (1529-30) IV, Pt. III, No. 5510 (5).

<sup>4</sup> A.P. I, 88; I.T.R. I, 106 (February 5th, 1533).

<sup>5</sup> A.P. I, 93, 106, 111, and 142; Foss, V, 292; D.N.B. XLIII, 88.

their great services to Christendom were forgotten. Henry coveted their possessions, and in 1540 his subservient Parliament passed an Act confiscating the property of the Order in England.<sup>1</sup> To give some colour of justification to the robbery this statute recited that the Knights of the Hospital of St. John had unnaturally, and contrary to the duty of their allegiances, sustained and maintained the usurped power and authority of the Bishop of Rome, the common enemy to the King and his realm; and that the Island of Rhodes, being lost, it was better the possessions of the Order should be employed and spent within the realm for the defence and surety thereof than used by such unnatural subjects who daily did privily and craftily attempt to subvert good and godly policy. Accordingly, it proceeded to make the wearing by the members of the Order upon their bodies of any sign, mark, or token, heretofore used or accustomed for the knowledge of the said religion, an offence against the Statute of Præmunire (16 R. II, c. 5); vested all the property of the Order real and personal in England and Ireland in the King and his successors, to use and employ at his own free will and pleasure under survey of the Court of Augmentations, and pronounced void and of none effect all privileges of sanctuary hitherto belonging to, used, or claimed in the mansion houses and other places commonly called St. John's hold. Pensions were provided under the Act for various officers of the Order, "being the Kinge's true and faithfull subjectis," and in regard to the Temple it was further enacted

"that William Ermestede, Clerke, Maister of the Temple in London, Walter Lymsey and John Wynter Chapleins there, and everie of them shal have perceive (*sic*) and enjoye during their naturall lifes all suche mansion houses stipendis and wages and all other profittes of money in as large and ample maner as they or auny of them lawfully have the same without lett or interrupcon the said Maister and twoo Chapleins of the Temple doing their dueties and services there as they have accustomed to doo." <sup>2</sup>

The Temple clergy seem to have accepted the option thus held out to them and to have remained at their posts, provision being made for them out of the former property of the Order. The upkeep of the fabric of the church passed to the Crown.

<sup>1</sup> 32 H. VIII, c. 24.

<sup>2</sup> *Ibid.* § 18.



But the Temple Societies seem to have accepted some responsibility in connection with the church, for they appointed churchwardens annually, one for each Society.<sup>1</sup>

Thus, once more, the New Temple was seized into the King's hand and the Lord of St. John's passes out of its story. It might have been expected that the Minutes of the Inns would have contained some allusion to this change in the landlord of the Temple. The only Minutes extant covering the material period are those of the Inner House, and they are wholly silent upon the subject. Indeed, to none of the startling changes in Henry's reign, which so profoundly affected the future life of England, do they make the slightest reference. Perhaps in this the writers exercised a wise discretion. There must have been many members of the Inn who had not renounced their allegiance to the Bishop of Rome. Words were easily twisted to treason and heads were cheap when Henry VIII was on the throne, for whatever crimes that monarch committed, he was never guilty of that sin which in a Ruler, responsible for the orderly well-being of a people, is the unpardonable iniquity, the sin of governing weakly. What is perhaps more surprising is the absence of all documentary evidence bearing upon the relations at this time established between the Crown as the new landlord and the two Temple Societies. All that can be said is that no change seems to have taken place, so far as they were concerned, except in the destination of the rents they respectively paid. For this they probably had to thank their poverty and lack of lands. Had they been richly endowed it is hard to believe that some of their possessions would not, in that reign, have found their way into the Court of Augmentations.

Among Temple lawyers who attained distinction during the early Tudor reigns, Sir Thomas Frowyk belongs to the reign of Henry VII and was of the Inner House. Joining the Society at a time anterior to the existing books, there is no record of his admittance. In 1494, at the unusually early age of twenty-eight, he was advanced to the degree of Serjeant-at-Law. In September, 1502, he was appointed Chief Justice of the Court of Common Pleas, being reputed the youngest man who had ever held that high office. Though his career as a Judge was brief, for he died in October, 1506, he left behind him a great reputation, being esteemed the very oracle of the Law. His untimely death is thus noticed in Robert Keilway's Reports—

<sup>1</sup> A.P. I, 44, 110; D. 27.

"Memo. que perenter Trin. 21 et Mich. 22 H. VII Tho. Frowyke Miles Capitalis Justiciarius de Communi Banco, obiit in florida juventute sua, quem Deus absolvat." <sup>1</sup>

Sir John FitzJames and Sir Edward Montagu, each of whom held the office of Chief Justice of the King's Bench, were of the Middle Temple. Summer Reader of the Inn 1504, FitzJames was elected Treasurer in 1509, and served in the office a second year.<sup>2</sup> King's Attorney in 1518, he was appointed a Justice of the King's Bench in February, 1521, and two days later Chief Baron of the Exchequer, where he presided for four years. In January, 1525, he returned to the Court of King's Bench as Chief Justice, and held the office till his retirement in 1538. One of the Commissioners appointed in 1535 for the trial of Bishop Fisher, he seems to have taken little part in the proceedings. But it cannot be claimed that where matters of State were involved he shewed any more independence than the other Judges of his time. In the ordinary business of his Court he appears to have been an able and upright Judge.

"It cost his chief clerk his place," says David Lloyd, "for taking a tankard after a signal cause of £1500 p.a. wherein he had been serviceable though not as a bribe but as a civility; so fearful was he of the very shadow and appearance of corruption." <sup>3</sup>

Sir Edward Montagu, destined to be the ancestor of three noble families, enjoying respectively the titles of Manchester, Sandwich, and Halifax, was admitted to the Middle Temple in May, 1506.<sup>4</sup> Summer Reader in 1524, he read a second time in Lent, 1531.<sup>5</sup> The same year he was raised to the dignity of a Serjeant-at-Law, and in 1537 appointed King's Serjeant. In 1538 he succeeded Sir John FitzJames as Chief Justice of the King's Bench and was knighted.<sup>6</sup> In 1545 he was transferred, as is said, at his own request, to the Court of Common Pleas, declaring that, being an old man, he loved the Kitchen before

<sup>1</sup> Fuller's Worthies, 183; Foss, V, 51; D.N.B. XX, 293.

<sup>2</sup> A. 5, 6, 15, 17, 40; and see, generally, Foss, V, 170-181; D.N.B. XIX, 179. The "errors and fabrications" of Lord Campbell regarding this Judge have been so fully exposed and refuted by Mr. Foss that there is no need to notice them here.

<sup>3</sup> State Worthies, I, 126.

<sup>4</sup> A. 8; M.T.R. 16: "die Veneris in crastino Ascensionis Domini" is the record.

<sup>5</sup> A. 46; O.J. 216.

<sup>6</sup> Shaw, II, 51.

the Hall, the warmest place best suiting with his age.<sup>1</sup> As it was the more lucrative post, the warmth he coveted may have been not unconnected with pecuniary advantage. Named by Henry VIII one of the Council of Regency for the minority of Edward VI, he became involved in Northumberland's scheme for settling the Crown on Lady Jane Grey, and was in consequence imprisoned, fined, and dismissed from his office by Queen Mary.<sup>2</sup> Perhaps reflections thus inspired on the mutability of human greatness may explain the motto above his altar tomb in the Church of St. Mary's Weekley, "Pour unge pleasoir mille dolours."<sup>3</sup>

The reign of Henry VIII marks the time when the Great Seal was first entrusted to laymen. The fame of Sir Thomas More, the first layman so honoured, is the envied heritage of Lincoln's Inn, but the seal which he resigned for conscience sake was given to Sir Thomas Audley of the Inner Temple, of whose career, brilliantly successful though it was, little can be said that is to his credit. Admitted to the Inner Temple Society on July 7th, 1510,<sup>4</sup> he was chosen Summer Reader sixteen years later<sup>5</sup> and read on the Statute of Privileges, when the opinions he expressed are said to have commended him to the royal service.<sup>6</sup> Speaker of the House of Commons in 1529,<sup>7</sup> and King's Serjeant in 1531, he received the Great Seal in the following year. A willing instrument of his master's policy, he abetted without scruple the acts of tyranny and violence which disgraced the later years of Henry's reign. The part he played at the trials of Bishop Fisher and Sir Thomas More,<sup>8</sup> over which he presided and upon whom he pronounced sentence, in particular, has brought him under general condemnation. He received his reward, being richly endowed from the spoils of the Monasteries,<sup>9</sup> given the Garter, and raised to the Peerage. He retained the Seal till smitten by a mortal illness to which he succumbed on April 30th, 1544.<sup>10</sup>

<sup>1</sup> Fuller, Worthies, 287.

<sup>2</sup> In his own account of this matter Sir Edward states the place he had lost was of the value of 600 marks p.a. He also mentions his seventeen children, eleven daughters and six sons. See Fuller's Church History, Bk. VIII, § 2, p. 5.

<sup>3</sup> Bridge's Northamptonshire, II, 347.

<sup>4</sup> A.P. I. 12, 13; I.T.R. I. 19, 20.

<sup>5</sup> A.P. I. 72; I.T.R. I. 84.

<sup>6</sup> State Worthies, I, 82.

<sup>7</sup> Parl. Hist. I, 492.

<sup>8</sup> State Trials, I, 386-407.

<sup>9</sup> Fuller, 327.

<sup>10</sup> Foss, V, 318-16; D.N.B. XLVIII, 123-126.

The career of Sir Thomas Audley finds its counterpart in that of Richard Rich of the Middle Temple, another obsequious servant of the Crown. Reader of his Inn in 1529,<sup>1</sup> he attracted the notice of Thomas Cromwell, who is said to have first employed him in the King's service.<sup>2</sup> Appointed Solicitor to the King in October, 1533, the zeal which he displayed in furthering his master's ends and procuring the conviction of Fisher and More has done little service to his memory. In some respects his conduct in this matter has been misrepresented to his disadvantage, but the truth is sufficiently damnatory to make it an idle task to attempt to remove the false shadows from the picture.<sup>3</sup> His reward was the chancellorship of the new Court of Augmentations; a position which he used to secure for himself a prodigal share of the lands plundered from the Church. Knighted in 1536, and Speaker of the House of Commons in 1537, he distinguished himself in that office by the grossness of his adulation in addresses to the King.<sup>4</sup> On the accession of Edward VI in 1547 he received a Barony and was created Lord Rich of Leeze, an Essex Priory conferred upon him by the royal bounty. The same year he reached the summit of his ambition, being appointed Lord Chancellor by Protector Somerset on October 23rd. He held the Seal four years, until December 31st, 1551, when, foreseeing his patron's fall and fearing to be involved in it, he resigned his office on a plea of failing health. Once more an ardent Romanist in the reign of Queen Mary, he deepened the darkness of his record by the zest with which he hunted heretics and personally superintended their burning at the stake. Left in undisturbed possession of his gains by Queen Elizabeth, he died immensely rich on June 12th, 1576.<sup>5</sup>

<sup>1</sup> O.J. 216.

<sup>2</sup> State Worthies, I, 221.

<sup>3</sup> The story that Rich secured Fisher's conviction by repeating in evidence statements made to him by Fisher under a pledge of secrecy is contradicted by the indictment on which Fisher was found guilty and which only charged treason on answers given by Fisher during his interrogation by Secretary Cromwell in the Tower: Record Office State Papers, 27 H. VIII, Bk. 8/9/2.

<sup>4</sup> Shaw, II, 50; Parl. Hist. I, 529, 534.

<sup>5</sup> See, generally, Foss, V, 318-326; D.N.B. XLVIII, 123.



## CHAPTER III

### THE TEMPLE UNDER KING EDWARD VI AND QUEEN MARY TUDOR

THE comparatively brief reigns of Edward VI and his sister Queen Mary afford few topics of interest to the student of Temple history. That of King Edward began on January 28th, 1547. As the Middle Temple Minutes of parliament are missing till February 14th, 1550, this source of information in regard to that Society is only available for the closing years of the reign. Judging, however, by the continuous Records of the Inner House, life in the Temple under the young King seems to have followed a quiet course, undisturbed by the conflicting ambitions of Somerset and Northumberland which stirred the political world without. In one respect the reign marks an advance in the practice of the Middle Temple Society; the admittance entries have now assumed a more regular form and have become either general or special, members admitted generally (*generaliter*) being subject to the ordinary conditions as to residence and study, and liable to serve in the various offices of the fellowship, while those admitted specially (*specialiter*) are exempt from these obligations and services, or from some of them. Further, the admittance records now contain the names of the fathers of the persons admitted, and it has become usual to add the name or names of one or more members undertaking to guarantee the entrant's honest behaviour, good repute, and due discharge of the obligations of membership.<sup>1</sup>

No fine seems to be charged at this time for a general admittance to the Inn, and 40s. is the sum usually paid for a special admittance. Later the security for the due performance of the duties of membership takes the form of two sureties bound with the person admitted (*obligatur unacum magistris*, etc.). The term "Inner Barrister" now comes into general use at the

<sup>1</sup> See admittance of Jas. Wassyngton, July 28th, 1554: "Plegii pro gestu et fama et debitis solvendis," etc.: D. 15; M.T.R. XIV.

Middle Temple to describe students of the House who have not attained the status or degree of Utter Barrister. Thus, on February 5th, 1551, it was ordered that Masters of the Inner Bar (*Interioris barræ*) who had chambers in the House should plead at the Inner Bar at "lez Motes" personally within two years after their admittance, and afterwards when "lez Motes" were assigned to them on pain of a fine of 3s. 4d. or loss of their chambers; and be in Commons unless prevented by some lawful impediment.<sup>1</sup>

Officers for a Grand Christmas continue to be nominated at the first parliament held in November. During the Christmas of 1551 those chosen at the Middle Temple refused to act, and in consequence no solemn Christmas was kept that year. For this default fines were imposed in the ensuing February; in the case of the Steward to the amount of £20.<sup>2</sup> Similar nominations took place on November 4th, 1552, but again without effect, for at a later parliament, held on November 17th, it was ordered that the ensuing Christmas should not be solemnly kept on account of the scarcity and dearness then prevailing.<sup>3</sup> The catering was still done by the house Steward; the rate at which he was authorized to charge for Commons being fixed from time to time by the Benchers. The charge was now a weekly one, and at the Inner Temple on January 31st, 1552, when there was "great dearth of all things," it was fixed for Masters' Commons at 3s. 4d. and for Clerks' Commons at 2s. 10d.; the latter figure being reduced next year, (when the price of corn had fallen) to 2s. 8d.<sup>4</sup> At the Middle Temple on May 12th, 1553, the Benchers fixed the rates for their Inn at 2s. 10d. for Masters' and 2s. 4d. for Clerks' Commons. Rates which were re-enacted November 12th, 1556.<sup>5</sup>

Towards the close of Edward's reign a list of seventeen chambers appears in French in the Middle Temple Minute Book under the date June 14th, 1553. These are stated to be Benchers' chambers, and the list concludes with a note that they are always to be granted by parliament and not otherwise.<sup>6</sup> Described by the names of the occupiers these chambers afford

<sup>1</sup> D. 6.

<sup>2</sup> D. 4, 6.

<sup>3</sup> D. 9. For an earlier instance of such abandonment in 1527, for the scarcity of corn, see A.P. I, 75; I.T.R. I, 88.

<sup>4</sup> A.P. I, 51, 119.

<sup>5</sup> D. 12, 22.

<sup>6</sup> D. 13. In one case two names are attached to the same chamber: Masters Weston and Carus.

interesting information of the strength and personalty of the Bench at this time. The number of them seems to represent an advance on the conditions prevailing in 1537, when the Inner Temple allocated ten chambers for the special use of the Benchers of their Society.<sup>1</sup> Some mystery attaches to the first three names on this list, for they are the names of noblemen, Lords Windsor, Mordaunt, and Stafford, none of whom followed law as a profession, and it is most improbable that they ever filled the office of Reader. As the government of the Middle Temple Society was at this time still confined to members of the House who had read, it is surprising to find these gentlemen included in this list. Their membership was no doubt valued by the Society on account of their social status and influence, and their occupation of these chambers may have been as Associates of the Bench only, and not as complete Benchers. At a later date, as will appear subsequently, it was the practice of the Inn to elect such Associates without conceding them any voice in government; but the loss of the Records makes it impossible to decide whether or not these noblemen were so elected.

William, Lord Windsor of Stanwell, had joined the Inn July 4th, 1513. He was the son of Sir Andrew Windsor (also a member of the Middle Temple), who was raised to the Peerage in 1529. Made a Knight of the Bath at the coronation of Anne Boleyn, he succeeded his father as second Baron in 1543, and kept his chamber in the Temple till his death in 1558. His brother Edmund was elected Treasurer in October, 1555. The family long maintained their connection with the Society, each successive holder of the Barony being a member until the direct line ended with Thomas the sixth Baron.<sup>2</sup>

John, Lord Mordaunt of Turvey, was the son of Sir John Mordaunt (also a member of the Inn), who had served as Speaker of the House of Commons and Chief Justice of Chester. He joined the Middle Temple on July 3rd, 1503.<sup>3</sup> A courtier of Henry VIII, he was knighted in 1520 and raised to the Peerage in 1532. He was the lineal ancestor of Charles Mordaunt, Earl of Peterborough, famous for his exploits in the War of the Spanish Succession, and the subject of some of Swift's most spirited verses.<sup>4</sup>

<sup>1</sup> *Ante*, p. 134.

<sup>2</sup> A. 23, D. 18, 95, 137, 183, 342; D.N.B. LXII, 176; Hall's Chronicle, 800.

<sup>3</sup> A. 3.

<sup>4</sup> Foss, V, 15, 16; D.N.B. XXXIII, 405.

Henry, Lord Stafford, was the only son of Edward Stafford, Duke of Buckingham, whose honours were forfeited by attainder in 1521. He was created Baron Stafford in 1547. His second son, Edward (the third Baron), was specially admitted March 10th, 1565. The chamber of Lord Stafford appears to have been over the Great Gate reconstructed by Sir Amyas Paulet.<sup>1</sup>

The other fifteen names in this list are those of practical lawyers, nine of whom attained the dignity of the Judicial Bench. One, Nicholas Luke, was at this time already a Judge, having been appointed a Baron of the Exchequer in 1540. He retained his office till his death in 1563, and not being a Serjeant, remained to the last a member of the Inn. Of the others, George Frevile was also raised to the Exchequer Bench (1558), and Francis Morgan, Reginald Corbet, Richard Weston, John Southcote, and Thomas Carus, all to the Queen's Bench between the years 1558 and 1566; while Anthony Browne and Robert Catlyn became, in 1558 and 1560 respectively, Chief Justice of the Common Pleas and Chief Justice of the Queen's Bench.<sup>2</sup> Finally, William Ruswell, who appears to have been the junior Benchet of this record, subsequently held the office of Solicitor-General from 1559 till his death in the year 1566. It thus seems that the Bench of the Middle Temple embodied much sound learning at the close of the reign of Edward VI.

One further matter calls for notice here. Two Inns of Chancery had long been attached to, and under the control of, the Middle Temple Society, Strand Inn, and New Inn. The first of these, as already indicated, was situated in the Strand, a short distance west of St. Clement Danes.<sup>3</sup> Little is known of its history, but Sir Henry Spelman states that at the time now reached it was the largest of the Inns of Chancery; a view which finds support in the evidence afforded by a Subsidy Roll of 1523, where the property of its assessable members appears at a higher value than is given for any other Inn of Chancery.<sup>4</sup> In an age of personal government, however, the prosperity of the Inn could not save it. The King's uncle, the Protector

<sup>1</sup> D. 13, 40, 53, 57; D.N.B. LIII, 450.

<sup>2</sup> Memorials of Sir Nicholas Luke, Sir Anthony Browne, Sir Robert Catlyn, and Justices Morgan, Southcote, and Carus, are preserved in the windows of the Middle Temple Hall.

<sup>3</sup> *Ante*, p. 96.

<sup>4</sup> Lay Subsidy, Divers Counties Bundle, 240, No. 273 (Record Office). The figures in this roll are Strand Inn, £530; Clement's Inn, £496; Clifford's Inn, £320; New Inn, £160; Lyon's Inn, £146; Davy's Inn, £120; Barnard's Inn, £106; Furnivall's Inn, £90; and Staple Inn, £80: see I.T.R. I, 460.



Somerset, coveted the site on which it stood for the mansion he designed to rear for himself by the Thames, and in common with the houses of the Bishops of Chester, Worcester, and Llandaff and the Church of St. Mary and the Holy Innocents, it was swept away in 1549, to make room for the lordly palace he constructed out of materials quarried from the north transept of old St. Paul's and the great Church of the Priory of St. John of Jerusalem at Clerkenwell. What became of the company who had so long resided there is not certainly known, but it seems probable that they migrated to the neighbouring House of New Inn, and so remained under the jurisdiction of the Middle Temple.

The accession of Queen Mary in July, 1553, restored for a time the authority of the Pope in England. The Records of the Temple Societies, however, afford no evidence of this affecting in any material respect the life of the Inns, and if the restitution of their London property to the Order of St. John of Jerusalem diverted for a time to the Prior at Clerkenwell<sup>1</sup> the rents paid by the Temple Societies, this did not result in any disturbance of their occupation of the New Temple. Officers for a Grand Christmas were appointed as usual in November of this year,<sup>2</sup> and in both Societies such appointments continued to be made throughout Queen Mary's reign; though at the Inner Temple the celebration was countermanded in 1555, on account of exceptional charges which the Inn had incurred that year, especially in building a new Kitchen.<sup>3</sup>

In 1554 comes the first light from the Middle Temple Records on the attitude of that Society towards Irishmen. A Minute of parliament of that year, dated June 6th, contains the admittance of Garrolde, son and heir of John Flemyng of Syden in Ireland, who is stated to have been admitted at the request of Baron Broune, notwithstanding the ancient Statutes and Orders that "non boron in Irelande shalbe admytted fellowe of this House"; words being added that the case is not to be a precedent.<sup>4</sup> The loss of the ancient Statutes leaves it uncertain when it was first determined to exclude from the Society persons born in Ireland, but there can be little doubt that the step was taken in consequence of the violent conduct of Irish students at Oxford University, resulting in 1422 in a petition for their

<sup>1</sup> Prior Sir Thos. Tresham : see D.N.B. LVII, 204.

<sup>2</sup> D. 14; A.P. I, 119.

<sup>3</sup> A.P. I, 124.

<sup>4</sup> D. 15.

expulsion from the Realm, which is set out in Norman-French on the Rolls of Parliament.<sup>1</sup> At this time the Universities were cosmopolitan, their rulers, perhaps, too indulgent, and the discipline by no means severe. But at Oxford the doings of the Irish seem to have exceeded all bounds. The petitioners divided them into two classes, those who were lieges of the King (presumably from the English Pale), and those who were not his lieges, but enemies of the King and his kingdom, "nomez Wylde Irishmen." These latter seem to have carried their misdeeds even into the adjoining counties, until not only in Oxford City and County, but also in Berkshire, Wiltshire, and Buckingham riots, robberies, rapes, homicides, and murders became the order of the day. It would probably be wrong to assume that the Irish students were the sole offenders in these matters, but that they had brought to England the habits of their own country with results disastrous to civilized life at Oxford University, described in this petition as the fountain and Mother of our Christian Faith, seems abundantly clear. The result was an enactment<sup>2</sup> requiring Irishmen (with certain exceptions) to leave the Realm within a specified time, under pain of loss of goods and imprisonment; and also forbidding any one born in Ireland to come to reside at the Universities of Oxford or Cambridge or anywhere else within the Realm, who did not bring to the King's Chancellor letters under the Seal of the Lieutenant or Justice of Ireland, testifying that he was the King's subject.

The policy of this Act seems to have commended itself to the Inns of Court as Colleges of Law. The earliest evidence of this comes from the Records of Lincoln's Inn, where, on March 4th, 1437, it was ordered that no person born in Ireland should be admitted in future as a fellow of the Society of "Lyncollysyn," and that if any one born in Ireland were thereafter admitted by any person or persons he should be expelled, such admission notwithstanding, so that no Irishman might in future be held or named a fellow of that Society.<sup>3</sup>

In spite of this order, however, Irishmen did obtain admittance to the Inn, and as time went on apparently in some numbers, for in 1542 the number of Irishmen who might at one time be members was limited to four.<sup>4</sup> Those admitted seem to have been segregated by themselves, for in 1554 an item of 10*d.* appears in the accounts for a lock and staples to shut the

<sup>1</sup> Rot. Parl. IV, 190.

<sup>2</sup> 1 Henry VI, c. 3.

<sup>3</sup> Black Bks. I, 8.

<sup>4</sup> *Ibid.* 261.

door of the "Irysshemen,"<sup>1</sup> and under the date May 14th, 1556, there is the following entry in the Books of the Society: "Item yt is ordered that gentlemen of Ireland shall not be admitted into any chamber in this house other than that which is called the 'Dovhowse.'" <sup>2</sup> A place which, if not belied by its name, must surely have had an atmosphere soothing to the savage breast.

An order excluding Irishmen must also have been made at the Middle Temple prior to the existing records, and the allowance of any exception to it was evidently regarded as a matter of grace and favour. When the rule was waived, a condition was sometimes added that the person admitted should not practise as a Barrister in England. Two entries of a later date (November 25th, 1584) will illustrate this:

"Yt ys ordered at this parliament that Mr. Barlee of this felowshipp shal be Utter barrister so he do here take the othe of supremacie and after practise only in Ireland as Utterbarrister and not in England." "Whereas Mr. Garlonde was called to the barre to the end to depart into Irelande and there practise. If therefore he do practise in Englande above one yere after this present day, he shal be disgraded the barre."<sup>3</sup>

The Inner Temple seems to have been more favourably disposed to applicants from Ireland, for three Irishmen, Fytzsymond, Butler, and Taylor, were there admitted without any unusual condition in July, 1510, December, 1519, and July, 1520, respectively; two more, Bathe and Cusake, generally in May, 1522, and John Baron in November, 1537, with two Irish pledges.<sup>4</sup> Had the exclusion of Irishmen been persisted in at the Middle Temple, many a distinguished name, including those of Edmund Burke, Henry Grattan, and Richard Sheridan (not to mention modern instances), would have been missing from the Inn's roll of honour.

In the year 1555 there was a general call of new Serjeants, seven counsel being advanced to the degree. The ceremony took place in the hall of the Inner Temple, where also, on the Quindene of St. Michael, the customary Serjeants' Feast was

<sup>1</sup> Bl. Bks. I, 311.

<sup>2</sup> *Ibid.* 315.

<sup>3</sup> D. 171: cf. Pension Bk. (Gray's Inn) I, 111

<sup>4</sup> A.P. I, 12, 54, 55, 63, 97.

held. Only one of the new Serjeants, John Prideaux, was a member of the Inner House.<sup>1</sup> Three were from the Middle Temple, all of whom were shortly after raised to the Judicial Bench, viz. Francis Morgan as a Justice of the Queen's Bench, Robert Catlyn as a Justice and later Chief Justice of that Court, and Anthony Brown as Chief Justice of the Common Pleas. At this time the Great Seal was held by Stephen Gardiner, Bishop of Winchester, and the offices of Chief Justice of the Queen's Bench and of the Common Pleas were filled by Sir William Portman and Sir Robert Brooke, both former members of the Middle Temple.

Sir William Dugdale has preserved detailed particulars of the proceedings at this creation.<sup>2</sup> The usual gifts of rings cost the new Serjeants in the aggregate £151 4s. 8d. They included two from each Serjeant for the King and Queen, made of the finest Angel gold and being in value each, besides the fashion, £3 6s. 8d. The guests at the Feast, which was sumptuously provided, included, amongst others of lesser note, the Lords of the Council and certain Spanish Lords and gentlemen; the Judges; the Lord Mayor and Aldermen; the Attorney and Solicitor General; the Chancellor of the Exchequer; the Attorneys of the Court of Wards and of the Duchy (of Lancaster), and the old Serjeants. Following the established practice, each of the new Serjeants was attended by gentlemen of his own Inn, as Sewer, Carver, and Cupbearer, while thirty-two of the chiefest gentlemen of the four Inns of Court (eight from each Inn) discharged the duties of Servitors in the Hall. The supply of provisions seems to have been on a prodigal scale. For the guests in one part of the Hall, comprising thirty-six messes, Sir William Dugdale specifies twenty heads of provender, including for the first course (*i.a.*) 36 "rosted swans," 36 pikes, capons, and venison pasties, and for the second (*i.a.*) 12 dozen partridges, 36 red deer pasties, 9 dozen "rabbit suckers," 18 dozen "snipes," and 36 dozen larks. The *chef d'œuvre* of the Feast, however, appears to have been a standing dish of wax, moulded to represent the Court of Common Pleas (the Serjeants' special forum), which cost £4, and graced the table of the Lords of the Council. The total expense to the seven new Serjeants, including the outlay on rings and £257 8s. for robes and liveries, is put by Sir William Dugdale at £667 7s. 7d.<sup>3</sup>

<sup>1</sup> A.P. I, 123, 124.

<sup>2</sup> Origines Juridiciales, 128-136.

<sup>3</sup> Sir William also gives some interesting particulars as to robes and



Hitherto there seems to have been no rule prohibiting Attorneys being members of the Inns of Court. On the contrary, their membership was recognized at the Middle Temple by an order there made on May 27th, 1552, excusing their attendance at cases argued after dinner or supper.<sup>1</sup>

In November, 1555, however, a new policy of exclusion was initiated against them, to which frequent reference will be made hereafter. It first finds expression at the Middle Temple in the following enactment :

November 22nd, 2 & 3 Philip and Mary : " It is agreed and enacted that henceforth no Common Attorney shal be admytted into the Companye and also in all admyssions henceforth shal be implied this condicion that anye gentleman when he refuseth study to practyse attorneyshipe shal be dysmyssed from this Companye and to have libertie to go and resorte to the House of Chauncerie from whence he came." <sup>2</sup>

Six months later Lincoln's Inn followed suit :

May 14th, 1556 : " Yt is ordered that from henceforth no man that shall exercise th'office of attorneyship shal be admitted into the felowship of this House without the concent of six of the Benche by their handes in wryting, whereof ther must be two dubble Redders : Item if any man shal be admitted as a student and after shall only exercise th'office of attorney and shall not kepe the lernynges in the vacations that then he shall losse the Fellowship and his chambers." <sup>3</sup>

On November 3rd, 1555, the Inner Temple had included Attorneys among the members of their House liable to contribute to the cost of rebuilding their kitchen.<sup>4</sup> Eighteen months later they enacted as follows : " Henceforth noe Attorney

liveries. The cloth for these was supplied by Mr. Albany, a draper in Watling Street, as follows : Every Serjeant for his robe of scarlot, 5½ yds. @ 33/4 per yd. ; of violet in grayn, 5½ yds. @ 16/- per yd. ; of brown blew 5½ yds. @ 14/- per yd. ; of mustard and murrey 5½ yds. @ 10/- per yd. ; for Taberts of the same several colours, 3 yds. each. Every Serjeant had also eight liveries of mustard and murrey cloth (1½ yds. each) for eight servants to attend him. These details do not include the many gifts of liveries to officials and friends which Sir William also specifies. (See O.J. 129.)

<sup>1</sup> D. 7.

<sup>2</sup> D. 20.

<sup>3</sup> Black Bks. I, 315.

<sup>4</sup> " Quilibet utter barrester and other experiencor and attorneys, v<sup>s</sup> " : A.P. I, 124.

nor other knowen to be a comon Solycytor of matters shal be admytted into this House without the assent and agreement of parliament.”<sup>1</sup> Further orders issued by the Queen’s Government for observance by the four Inns of Court in June, 1557, expressly prohibited the admission of Attorneys, and directed that any member practising attorneyship should be dismissed *ipso facto* from his Fellowship to the Inn of Chancery from which he had come, “or to anye other yf he were of none before.”<sup>2</sup> No reason is assigned for this exclusion, either in the Records of the Inns or in the Queen’s Orders. It seems probable, however, that the prolonged course of learning at this time insisted upon in the case of advocates intending to practise in the Courts at Westminster, was felt to be unsuited to gentlemen engaged in the work of Attorneys, and that the limited accommodation afforded by the Inns of Court rendered it undesirable that they should be crowded by members whose occupation made them, in a sense, alien to the Collegiate life. The numbers attending the Inns were certainly growing, so much so that the Inner Temple Society found it necessary to appoint two additional officers, on account of “the great multitude of the Company” which “ys encreased and doth dayly encrease more and more.”<sup>3</sup> Notwithstanding the above orders, however, some Attorneys remained members of the Temple Inns,<sup>4</sup> and, as will subsequently appear, many further like orders were made before this branch of the legal profession finally departed to the Inns of Chancery.<sup>5</sup>

Now, also, for the first time in the Records of the Middle Temple, restrictions are found upon the dress to be worn by Members of the House. On May 12th, 1557, there is an order of parliament that none of the Company shall wear breeches of any light colour, nor use coifs of English lawn, or velvet caps or “whynges” in their study gowns.<sup>6</sup> Six weeks later came the Queen’s orders to the four Houses of Court, which included (*i.a.*) the following :

(1) “Imprimis that none of the Companyes except Knyghts or Benchers from the last daye of September next, weare in

<sup>1</sup> May 23rd, 1557; A.P. I, 128.

<sup>2</sup> D. 24; A.P. I, 129.; enacted at the M.T. on June 25th.

<sup>3</sup> A fourth Butler and a second turnbroche (May 7th, 1553; July 1st, 1555): A.P. I, 117, 124.

<sup>4</sup> A.P. I, 138, 171.

<sup>5</sup> See *post*, pp. 226, 289, 369, 492.

<sup>6</sup> D. 23: “Whynges in togis suis studentibus.”

theire doublets or hoses any lyght color excepte scarlett and crymsone, or weare any upper velvett cappe or any scarffe or wyng in theire gownes uppon payne to forfeite for the fyrst defalte iijs<sup>s</sup> iiij<sup>d</sup> and for the seconde expulsyon": (3) "Item that none of the Companyes of the said Houses shall weare theire studye gownes into the cyttie any further than Flete brydge, holborne brydge or Savoy, uppon lyke payne as last before; (4) Item that none of the said Companyes when they be in Comons shall weare Spanyshe cloak, sworde and buckler or rapyer uppon lyke payne"; (6) "Item that none of the said Companyes under the degree of a knyght beyng in Comons do weare any bearde above three weeks growyng uppon payne of fortie shillings and so double for any week after Monycon, that he shal be so in Comons." <sup>1</sup>

At the Inner Temple the dress of members and the wearing of beards had been subjects of domestic legislation eleven years earlier, as appears by the following order of May 30th, 1546:

"It is funder ordered that the gentilmen of the Company schall reforme them selfis in the cutt or disguysed apparell and schall not have longe berdes and that thezaurour schall comon with th'other thezaurours of Court for a unyfforme reformacon and to know the Justicez opynyons therein and thereupon to performe the same." <sup>2</sup>

On May 5th, 1555, the wearing of beards once more came under condemnation as follows:—

"Yt ys ordered at the sayde parliament that yf any of the felowshipp or Compaynge of this house after Wednesdaye next comyng shall weare any beards above three weeks grothe that then every such felowe that shall so weare hys beard contrarye to this order for every tyme so offendynge to forfayt xx<sup>s</sup>."

This enactment caused some members to absent themselves from dinner and supper and the learnings in the House to

<sup>1</sup> For these orders see D. 24; also A.P. I, 129, 130.

<sup>2</sup> A.P. I, 36; I.T.R. I. 142.

avoid detection; conduct of which the Benchers expressed their disapproval by imposing fines on the absentees.<sup>1</sup>

The mention of Spanish cloaks, in the Queen's orders, suggests that her Majesty's marriage with Philip of Spain had brought in a foreign fashion which it was thought desirable to check. This marriage was very unpopular with some of Mary's subjects and the occasion of Sir Thomas Wyatt's rebellion, in connection with which Stow, in his *Annals*,<sup>2</sup> mentions a curious incident. When Sir Thomas and his supporters approached London there was great unrest in the city, no man knowing what the outcome would be.

"On candlemas day," says Stow, "most part of the householders with the Mayor and Aldermen were in harness; yea this day and other days the justices, serjeants at the law, and other lawyers, in Westminster Hall pleaded in harness."

It has been reserved for modern times and the Great War, to again witness Counsel pleading in harness in the King's Courts.

The orders as to dress, set out above, do not seem to have been immediately effective, for on May 20th, 1558, they were followed at the Middle Temple by a further order that, after the feast of the Nativity of St. John the Baptist (June 24th) next, none of the Company should wear

"any greate bryches in their hoses made after the Duche, Spanyshe or Almon [German] fassyon, or lawnde uppon theire cappes or cutt dublets uppon payne of forfeiture onely for the fyrst defalte and the seconnde tyme to be expulsyd owt of the house." <sup>3</sup>

The reference to study gowns in these orders is of interest as the first definite evidence the Societies' Records afford of an academic costume being worn by the members. Though not mentioned before, it seems clear gowns were in general use and probably not a new institution. The Inner Temple extended the rules as to study gowns to their Inns of Chancery, and

<sup>1</sup> A.P. I, 122, 123. At Lincoln's Inn, likewise, beards had been condemned (Black Bks. I, 259). There, in May, 1555, Master Myddeton was fined 20*d.* "for his over much speaking at the Benche in defence of the weryng of berdes"; *Ibid.* 312.

<sup>2</sup> Edit. 1592, p. 1048.

<sup>3</sup> D. 27.



directed the Readers there to see them enforced.<sup>1</sup> The custom of wearing gowns in the Inns has its counterpart to-day in the gowns still required to be worn at dinner in Hall during the dining terms. The prohibition against wearing gowns "into the cyttie," beyond Fleet Bridge and Holborn Bridge, may have been intended to prevent the risk of conflicts between the young gentlemen of the Inns of Court and the London Apprentices (famous for their turbulence), analogous to the town and gown encounters not unknown in later times at Oxford and Cambridge.<sup>2</sup>

The Queen's orders of 1557 also imposed some check upon the hospitality dispensed at the Readers' Feasts, by directing that no Reader should have above three guests at his dinner and that the Stewards of the dinner should have none.<sup>3</sup> In the Inner Temple Records this regulation is varied by allowing the Stewards one guest each, but no more.<sup>4</sup> At a later date penalties for breaches of this rule were enacted at the Middle Temple, as follows: £10 for each guest above the number of three invited by the Reader, and £5 for each guest invited by the Steward.<sup>5</sup>

By the same orders instructions were also given as to the Moots held in the Inns of Chancery during vacation times, as follows:

"Item that mote cases in anye of the houses of Chancery for the vacacon tyme do not contayne above twoo poynts argumental and that the same cases be brought in in pleadyng and the puyne of the benche to recyte the hole pleadyng according to the auneyent order and that none shall argue above-two poynts." <sup>6</sup>

Hitherto the practice at the Middle Temple in regard to admittances seems to have been somewhat loose. Occasionally they appear to have been allowed at the instance of the Treasurer, sometimes at that of the Reader or some member of the Bench.

<sup>1</sup> A.P. I, 130.

<sup>2</sup> Study gowns are also mentioned about this time in the Black Bks. of Lincoln's Inn (Vol. I, 312: May 23rd, 1555). The surviving Records of Gray's Inn do not commence till a later date (1569). There, in 1600, gowns were ordered to be worn, not only in the House but in the suburbs and fields (Pension Bk. I, 148).

<sup>3</sup> D. 24.

<sup>4</sup> A.P. I, 130.

<sup>5</sup> D. 185 (May 20th, 1569).

<sup>6</sup> D. 24.

But on May 12th, 1557, a stricter system was introduced, it being then ordered that no person should be admitted to the Society, either generally or specially, by the Treasurer (or presumably any other Master of the Bench) unless with the consent of the whole Council of the Masters of the Bench, except in Reading time, when authority to admit was conceded to the Reader or his helper or assistant.<sup>1</sup> At the Inner Temple the Reader also enjoyed this privilege, it being the rule there to allow him one admittance during his reading.<sup>2</sup>

It is during this reign that the office of Under Treasurer first appears in the Middle Temple Minutes. In November, 1556, Mr. John Garnans was elected Under Treasurer and re-appointed in the following year.<sup>3</sup> It is probable, however, that the office was of much earlier origin, for in July, 1524, when Richard Lyster (then Solicitor-General) was re-elected Treasurer of the Inn, he procured the appointment of Master Whorwode to collect and levy debts in his place, as an assistance to him in discharging the duties of his office.<sup>4</sup> Owing to the loss of Records no Minute after this date, dealing with the election of a Treasurer, is available for reference until the year 1551, but seeing that another member (Humfrey Molsley) was chosen that year to aid the Treasurer then elected in collecting and levying debts,<sup>5</sup> it seems probable that appointments of such assistants were likewise made during the intervening period, as is suggested by the writer of Master Worsley's Book.<sup>6</sup>

In the Records of the Inner Temple a deputy Treasurer for that Inn is mentioned as early as November, 1526, and there are repeated subsequent references to such an officer from November, 1557, under the description of "sub" or "under" Treasurer.<sup>7</sup>

How far the services in the Temple Church were modified in the reign of Edward VI does not appear from the Records of the Inns, but any changes then introduced must have been followed by a reversion to the old forms under Queen Mary,

<sup>1</sup> D. 23: "Ordinatum est &c. quod nullus admissus erit per Thesaurarium in Societatem generaliter aut specialiter nisi per assensum et consensum totius concilii magistrorum de Banco; præterquam in tempore lectoris quando auctoritas admittendi conceditur Lectori et ejus auxilianti sive assistenti."

<sup>2</sup> A.P. I, 102.

<sup>3</sup> D. 21, 25; M.T.R. 107, 113.

<sup>4</sup> A. 47.

<sup>5</sup> D. 5 (ad coligendum et levandum debita vice Thesaurarii). Later described as "Deputat. Thesaurarii." See also M.T.R. 83. Molsley seems to have acted in the same capacity till Garnans was appointed.

<sup>6</sup> Ingpen's Edit. 176, 177.

<sup>7</sup> A.P. I, 74, 131, 150, 157, 162, 164, 181.

and in November, 1555, "two payre of silver censers," by commandment of the Bench, were delivered by Anthony Stapylton (Treasurer of the Inner Temple) to the Master "to kepe to the use of the churche."<sup>1</sup> Further, on June 20th, 1557, orders were made requiring all fellows of that House in Commons to come to the church from time to time and hear "devyne service," "Mass Matens and Evensonge &c. as heretofore hath bene used," and all in Commons or lying in the House to keep "18 offeryng daies in the yeare accordyng to the auntyent laudable custome of this House."<sup>2</sup> The response to this direction to observe the offering days does not seem to have been very satisfactory, for it was thought necessary to pass a further order on May 28th, 1559, to stimulate the members' benevolence, which is recorded as follows :

"Memo that yt is enacted at this parliament that everye man shall offer th'accostomable offeringe dayes which with 2*d.* to be payd att Easter dothe amount unto 18*d.* yerelye and that at everye offeringe daye he that offereth doe take up a token at the offeringe and he that can not shewe a token that he hath offered do paye to the Butler his offeringe dewe immedyatelye uppon requeste there of to the use of the Master of the Temple."<sup>3</sup>

At an earlier date the Inner Temple had ordered their Treasurer to "provyde boks for the syngyng in the Choir jointly with the Midel Yn":<sup>4</sup> which no doubt was duly done, though the matter is not referred to in the Minutes of the Middle Temple Society.

In November, 1557, both Houses had made provision for the wages of the singing men by enacting scales of contribution from their members for that purpose; in the Middle Temple 12*d.* from every Bencher and 4*d.* from other members of the House; and in the Inner Temple 20*d.* from Knights, 12*d.* from Benchers, and 4*d.* at least from every fellow under the Bench. These were terminal contributions and to be in force for one year.<sup>5</sup>

As stated by Sir John Fortescue, the recognized method of punishing grave offences against the rules of the Inns of Court was by expulsion from the fellowship. In 1556, however, the Governors of the Inner Temple took even more drastic action

<sup>1</sup> A.P. I, 125.

<sup>2</sup> *Ibid.* 129.

<sup>3</sup> *Ibid.* 135.

<sup>4</sup> *Ibid.* 120 (April 15th, 1554).

<sup>5</sup> *Ibid.* 130; D. 26.

against eight members of their House who had been guilty of wilful disobedience during the Summer Vacation of that year and had used themselves contemptuously towards the Benchers, for besides suffering expulsion, they were committed to the Fleet prison. Four of them, however, who made their humble submission, were soon restored to their liberty and membership.<sup>1</sup>

Before passing to the next reign something must be said of two members of the Middle Temple Society who attained high judicial office under Queen Mary, and of two members of the Inner House who played a conspicuous part in the life of that Inn. The first of these is Sir William Portman, Chief Justice of the Queen's Bench. His father, John Portman, had twice served as Reader at the Middle Temple (1509 and 1515),<sup>2</sup> and his grandfather is said to have been also a member of the Inn. Admitted to Clerks' Commons in May, 1517,<sup>3</sup> he served as Autumn Reader in 1532 and as Lent Reader in 1540,<sup>4</sup> in which year he was called to the Serjeant's degree and appointed King's Serjeant. Six years later he was made a Justice of the King's Bench, and on June 11th, 1555, promoted to be Chief Justice of that Court.<sup>5</sup> His name frequently appears as a Commissioner in State trials, and if on these occasions he showed no more independence than the other Judges of the time, in the ordinary business of his Court he had a high reputation for impartiality and integrity, being adamant in the matter of gifts, which nothing would induce him to accept.

"Of all his virtues," says Lloyd, "his constant and growing soul raised him to, this was one, that he durst not entertain a gift, which (as he said) conquers both the foolish and the wise : which in public places it is a vice to accept and not a virtue to offer ; it being a snare rather than a favour."<sup>6</sup>

He did not long enjoy the higher dignity of Chief Justice, for he died February 5th, 1557. He was buried in the church of St. Dunstan in the west, and in Machyn's Contemporary Diary there is a description of his funeral, which is set out here as affording an account of the ceremonial observed in those times upon such an occasion.

"The X day of Feybruary was bered at Sant Dunstones in the West Ser Wyllyam Portman Cheyffe Justice of Englande

<sup>1</sup> A.P. I, 126, 127.

<sup>2</sup> A. 15, 24.

<sup>3</sup> A. 30.

<sup>4</sup> O.J. 216.

<sup>5</sup> Foss, V, 387-389.

<sup>6</sup> Worthies, II, 275.



with a harold of armes and a standard of armes and pennon, and a cott armur and a targett, a helmett and the crest a leperd-hed gold and ij snakes [coming] out of ys mowthe, with a cross peyche [fitchy] gulle, a [herse] and sword and the mantylles of blake velvett, and ij grett wytt branchys fayre with shochyons of armes and ij dosen torchys and the powre men had . . . gownes and iiij grett gylt Candylstykes with iiij . . . garnysched with angelles and armes and penselles and mo[ny] morners; and after came vj Judges and vij Serjeants of [the Coif] and after all the Ynes of Cowrte ij and ij together and the morow iiij goodly masses songe and a sermon mad.”<sup>1</sup>

The second name deserving to be commemorated is that of Sir Robert Brooke, Chief Justice of the Common Pleas. As he joined the Middle Temple during the period of the lost Records the date of his admittance is not known. Autumn Reader in 1542,<sup>2</sup> he read on the Statute of Limitations (32 Henry VIII, c. 2). Successively Common Serjeant and Recorder of London in 1545, he read a second time in Lent, 1551,<sup>3</sup> on chapter 16 of Magna Carta, and in the following year was created a Serjeant-at-Law. Representing the City of London in several Parliaments, he was elected Speaker of the House of Commons in 1554,<sup>4</sup> the year of Queen Mary's marriage with Philip of Spain, and on October 8th was raised to the Bench as Chief Justice of the Common Pleas. In the following January he was knighted by King Philip.<sup>5</sup> His tenure of office though short, for he died on September 6th, 1558, is said to have confirmed his high reputation for learning and integrity. His chief title to fame, however, is his Abridgement, in which the Common Law as decided in the Year Books and Cases determined in his own time, is arranged and classified under alphabetical headings. This work, which followed the plan adopted in the earlier Abridgement of Sir Anthony Fitzherbert (published 1516),<sup>6</sup> was written in Law French and, so far as is known, not printed till after his death. Issued in 1568, it had an instantaneous success, four other editions following between that date and 1586. The edition of

<sup>1</sup> Camden Soc. No. XLII, 125, 126. Machyn, by trade a funeral undertaker, was naturally interested in such ceremonial.

<sup>2</sup> O.J. 216.

<sup>3</sup> *Ibid.* 217; Foss, V, 360.

<sup>4</sup> Parl. Hist. I, 613.

<sup>5</sup> Shaw, II, 69.

<sup>6</sup> Harvard Law Review, xxxvii. 233.

1573 (printed by Richard Tottell), a massive folio volume, is thus entitled "La Graunde Abridgement Collect et escrie per le Judge tres reverend Syr Robert Brooke Chivalier nadgairs Chiefe Justice del comon banke." Cases included in the Abridgement, from the reigns of Henry VIII, Edward VI, and Queen Mary, which the learned Judge had himself reported, were issued separately in 1578.<sup>1</sup>

Sir John Baker, though he never held judicial office, played a conspicuous part in the life of the Inner Temple Society during three Tudor reigns, and was also much employed in the service of the State. As he joined the Inn at a date anterior to the existing books there is no record of his admittance. In February, 1516, he was called to the Bench, and in 1521 elected Reader; but a visitation of the plague seems to have prevented his reading at this time.<sup>2</sup> In 1526 he was sent by King Henry as an Envoy to the Court of Denmark.<sup>3</sup> Three years later he was again chosen Reader,<sup>4</sup> and between 1532 and 1557 twelve times nominated a Governor of the Inn. In 1533 he was elected Treasurer, but on terms to be excused the office if he so desired.<sup>5</sup> Appointed King's Attorney in 1537, he was knighted in the following year, and in 1545 chosen Speaker of the House of Commons.<sup>6</sup> In 1547 he again discharged the duties of that office<sup>7</sup> in the first Parliament of King Edward VI, and the same year was made Chancellor of the Exchequer.<sup>8</sup> Though implicated with other members of the King's Council in the abortive attempt to deprive Mary of the succession to the throne, he retained his office under that Queen, with whose religious views he seems to have been in full accord. He died in December, 1558, a few weeks after the accession of Elizabeth.<sup>9</sup>

Sir Nicholas Hare was also of the Inner House. Admitted to that Society in February, 1514, he was chosen Summer

<sup>1</sup> See, generally, Foss, V, 359-361; D.N.B. VI, 389. The arms of Sir Robert Brooke quarterly 1st and 4th chequy argent and sable and 2nd and 3rd argent, a cross fleury sable, at one time occupied a place of honour in the west window of the M.T. Hall. They were removed, however, between 1602 and 1634, and have not been re-erected elsewhere, thus severing an interesting link with the past: Bench Bk. 140, 402.

<sup>2</sup> A.P. I, 25, 59, 61, 62.

<sup>3</sup> D.N.B. III, 12.

<sup>4</sup> A.P. I, 80.

<sup>5</sup> *Ibid.* 87.

<sup>6</sup> *Ibid.* 97, 98; Shaw, II, 51.

<sup>7</sup> Com. Journ. I, 1.

<sup>8</sup> D.N.B. III, 12.

<sup>9</sup> See Dasent's Speakers, 128-130.

Reader in April, 1532.<sup>1</sup> Six years later he was elected a Governor of the Inn, and held the office on many subsequent occasions. Knighted in 1538,<sup>2</sup> he was chosen Speaker of the Commons in the following year.<sup>3</sup> In 1540 he was appointed Chief Justice of Chester and also held the office of a Master of Requests.<sup>4</sup> In 1553 he was raised to the higher position of Master of the Rolls, which he occupied till his death in 1557.<sup>5</sup> In modern times he has been commemorated in the south bay window of the new Hall of the Inner Temple, but the monument erected to his memory in the Temple Church, where he was buried, has perished.

<sup>1</sup> A.P. I, 20, 84.

<sup>2</sup> Shaw, II, 51.

<sup>3</sup> Dasent, 127

<sup>4</sup> D.N.B. XXIV, 372.

<sup>5</sup> Foss, V, 374-376.

## CHAPTER IV

### THE TEMPLE UNDER QUEEN ELIZABETH

WITH the death of Mary Tudor on November 17th, 1558, opened the reign of her successor, the daughter of Anne Boleyn, one of the most remarkable in English history, alike in regard to the personality of the Ruler and the circumstances of the age in which she ruled ; an age of high aspirations and widening vision, when Europe, awakened from the torpor of the Middle Ages, was quickened with a new life. The Records of both the Temple Societies reflect the movement and expansion of the times, the numbers admitted to membership greatly increase, and much building is seen to be going on in the Inns. During this reign the ancient system of law learning attains its maturity, and if the testimony of Sir Edward Coke may be accepted, it produced a remarkable succession of sound and able lawyers. In the case of both Societies the reign supplies the first records of calls to the Bar, and to it the Middle Temple owe their noble Hall, which, happily escaping the destruction wrought by fire in so many other Temple buildings during the seventeenth century, still stands to-day a crowning glory of Tudor domestic architecture. Elizabeth, with her inherited Tudor instincts, held the Law in high esteem, and is believed to have been a frequent visitor at the Inns of Court. From them she drew her most trusted servants, and not only her statesmen and courtiers, but the daring navigators and adventurers whose exploits, by opening new worlds to English enterprise, shed a lustre on her reign, were proud to be enrolled amongst their members.

On the day following Queen Mary's death the Benchers of the Middle Temple (and those of the Inner House three days later) held their first parliament for the new reign. In each case the heading of the record "1<sup>o</sup> Elizabeth" is the only reference made to the accession of a new Sovereign, for, as usual, the Benchers take no notice of events happening outside the Inns and severely confine themselves to their own business. The Minute of this parliament of the Middle Temple contains



an order in Latin that none of the Society shall in future keep a hawk in the Inn.<sup>1</sup> Under modern conditions it is difficult to understand why any one should desire to do so, but when Elizabeth ascended the throne, the vicinity of the Temple was very different from what it now is. Across the Thames lay open country, while north of the Strand, west of St. Clement Danes, stretched fields and pastures with houses still few and far between. Indeed, such were the facilities for the pursuit of field sports in the neighbourhood of London that Stow, writing even forty years later, could testify that "in hawking and hunting many grave citizens at this present have great delight and doe rather want the leysure then good will to follow it."<sup>2</sup> Therefore, it may well have been the case that the pastime of hawking, in which the *Pauperes Commilitones Christi* were forbidden to indulge, was a favourite diversion of their legal successors in the New Temple. The sporting proclivities of the young gentlemen of the Inner House seem, however, to have been more up to date, as appears from the following order made there on January 28th, 1564: "Shuteres with gunnes within this house to forfyte videlicet for every shotte the Master XX<sup>s</sup> the man X<sup>s</sup>."<sup>3</sup>

On two occasions during this reign orders were issued concerning the government of the Inns of Court. The first orders came from the Queen's Privy Council in Easter Term, 1574. They dealt with the increase of chambers in the Inns, Conformity in Religion, the due performance of the exercises of learning, calls to the Bar, and the qualifications for pleading in the Courts at Westminster.<sup>4</sup> The second orders date from Hilary Term, 1594, and were rather in the nature of recommendations by the Judges than positive enactments,<sup>5</sup> for the opinions of the Benchers of the respective Inns were invited upon them, and they did not assume their final form until May, 1596.<sup>6</sup> They dealt with the Readings, Moots, and other exercises, and were designed to counteract a tendency to depart from the ancient

<sup>1</sup> D. 29; "Ordinatum est quod nullus Societatis hospicii Medii Templi imposterum servabit aliquam accepitrem infra hospicium prædictum": side note "Hawk."

<sup>2</sup> Survey (Edit. 1908), I, 95. Even as late as 1604 the Privy Council, on May 7th, instructed the Solicitor-General to draw up a proclamation forbidding all persons of what degree and quality soever (except the King's and Queen's Majesties and the young Prince) to hunt with hounds within four miles of the cities of London and Westminster: see Acts of Council (New Series), XXXII, 511.

<sup>3</sup> A. P. I, 156.

<sup>4</sup> D. 112; A.P. 179.

<sup>5</sup> D. 236.

<sup>6</sup> A.P. II, 25.

methods of learning. These orders show the Queen's interest in the Societies, and her desire to maintain their prestige as Houses of Law. Their provisions, however, will be best considered when the subjects to which they relate come under review.

Early in Elizabeth's reign a difference arose between the two Temple Societies which caused great soreness in the Inner House, and for a time put a severe strain on the harmonious relations hitherto prevailing. The destruction of Strand or Chester Inn<sup>1</sup> had left the Middle Temple Society with only one Inn of Chancery under their control. The Inner Temple alone of all the Houses of Court had jurisdiction over three such Inns, Clifford's Inn, Clement's Inn, and Lyon's Inn—and the Benchers of the Middle Temple in the circumstances which had arisen regarded this as inequitable. They accordingly decided to obtain, if possible, the transfer of Lyon's Inn to their own Society. In 1561, the time seemed ripe for the project. Both the Chief Justices, Sir Robert Catlin and Sir James Dyer, as well as other Judges then upon the Bench, were former members of the Inn and could be counted on for assistance. Through them pressure was brought to bear upon Sir Nicholas Bacon, Lord Keeper, to enlist his support. The Inner House had, however, a powerful ally in Lord Robert Dudley, K.G., Master of the Queen's Horse, and appealing to him as their "Chief Refuge" in this emergency, succeeded in preventing the transfer.

There is a detailed account of the incident in the Parliament books of that Society, under the date November 16th, 1561,<sup>2</sup> which, viewing the matter from the Inner Temple standpoint, represents the attempt as "a suyte so wrongfullye and unneighbourlie practized against us." This record tells how the intervention of the Society's powerful friend caused the Queen to send her "ringe as a token to the Lord Keeper and also in her royall personne to speake to the said Lord Keeper to cease and no further to proceed or meddle" in the matter; which the said Lord Keeper, having been of the company and fellowship of Gray's Inn "of auncient amytye familiartie and friendship with this our house," was glad to do and to have occasion from her Highness fully to answer such earnest and importunate suits as had been made to him. Accordingly, in acknowledgment of, and humble thanks for, the singular benefit thus received

<sup>1</sup> See *ante*, pp. 152, 153.

<sup>2</sup> A. P. I, 146-148.

by his Lordship's only means and goodness, the Society through their parliament did

"with one voice and consent frelie and most willinglie enacte ordaine and establish that no person or persons whatsoever now beinge or which at anie tyme hereafter shalbe of the felowshipp or companie of this our house of the Inner Temple shall in anie wise or by anie manner of meanes be reteyned of Counsel or otherwise give anie Counsell helpe or ayde in anie matter or cause againste the said ryghte honorable Lord Roberte Duddleley or againste anie of his heires But that we and everie of us and our successors shall at all tymes hereafter be of Counsell with the said Lord Roberte Duddleley and his heires upon his and theire pleasure therein sygnified to us or them in that behalf."

In further acknowledgment the Society decreed

"that the armes of the said ryghte honorable Lord Roberte Duddleley shalbe sette up and placed in some semelye and convenient place in the hall of this our house of the Inner Temple as a contynual monument of his Lordship's said goodnes and great goodwill towards this house." <sup>1</sup>

They also admitted to their fellowship John Dudley gent., a kinsman of Lord Robert, who is stated to have "verie earnestlie travailed to the said Lord Roberte Duddleley in this our humble suyte to his Lordshipp." <sup>2</sup> Moreover, the grateful Society elected Lord Robert Governor of their Christmas celebration this year, and in the festivities which followed he himself was enrolled a member of the House. <sup>3</sup>

This was the Grand Christmas of 1561, kept with a richness of display and an extravagance in feasting probably never before equalled. Gerard Legh <sup>4</sup> in his "Accedens of Armory," published a year later, has left a remarkable account of the

<sup>1</sup> A.P. I, 148.

<sup>2</sup> *Ibid.*

<sup>3</sup> December 22nd, 1561, Admissions, Bk. I.

<sup>4</sup> The Petyt. MS. No. 538, says Legh was a member of the Inner Temple and also an officer of the College of Arms. Neither statement is correct. But his father lived outside the Middle Temple gate where Child's Bank now stands, so that he was reared under the shadow of the Inns and for their members he had a vast respect.

proceedings on this occasion, when Lord Robert held his Court in the Inner Temple as the "Mightye Palaphilos Prince of Sophie hyghe Constable Marshal of ye Knightes Templers, Patrone of thonorable Ordre of Pagasus."

Legh, who, for the purpose of his description, assumes the character of a traveller newly returned to London from foreign parts, tells how he accosted a citizen, from whom he received the following description of the Temple :

"A place privileged by the most excellent Princess the High Governor of the whole Island wherein are store of gentlemen of the whole Realm, that repair thither to learn to rule and obey by Law to yield their fleece to their Prince and Common Weal ; as also to use all other exercises of body and mind where unto nature most aptly serveth to adorn by speaking, countenance, gesture and use of apparel, the person of a gentleman." <sup>1</sup>

The following day he decided to see this place for himself, and accordingly entered the Temple Gate.

"I found the buildings," he continues, "nothing costly ; but many comely gentlemen of face and person and thereto very courteous saw I to pass to and fro, so as it seemed a Prince's port to be at hand ; and passing forward entered into a church of ancient building wherein were many monuments of noble personages armed in knightly habit, with their coats depainted in ancient shields ; whereat I took pleasure to behold." <sup>2</sup>

Accosted by no less a person than Palaphilos himself, he was led into the Inner Temple Hall, where he beheld and describes the serving of dinner with all the state of a Court, different tables being set for the Prince, the Nobility, the Officers of the Household, the Master of the Game, with Chief Ranger, Clerks of the the Green Cloth, etc., the Lieutenant of the Tower with diverse Captains of foot bands and shot, as well as for inferior officers and the great resort of strangers. Of the Prince's fare he writes :

<sup>1</sup> *Accedens of Armory* (Edit. 1562), 205. The spelling, which is very archaic, is here modernized.

<sup>2</sup> *Ibid.* 206. This no doubt refers to the recumbent effigies still in the Temple Church. The coats of arms once "depainted" on their shields, time, however, has obliterated.



“The Prince so served with tender meats, sweet fruits and dainty delicates, confectioned with curious cookery, as it seemed wonder a world to observe the provision; and at every course the trumpets blew the courageous blast of deadly war, with noise of drum and fife, with the sweet harmony of violins, sackbuts, recorders and cornets with other instruments of music as it seemed Apollo’s harp had tuned their stroke. . . . I assure you,” he adds, “I languish for want of cunning to ripely utter what I saw so orderly handled, appertaining to service.”

Without following the details further, it may be briefly stated, that in the course of these festivities twenty-four gentlemen were dubbed knights of this imaginary Order of chivalry and solemnly invested with the helm of fortitude, the breastplate of courage, the sword of justice, the spurs of speed, “to prick therewith the horse of fame,” and the targe, mantle, and collar of Pallas with pendant Pegasus.<sup>1</sup> Further, in honour of the occasion, the Inn appears to have assumed the armorial cognizance it still uses—a Pegasus *argent* on a field *azure*, with the motto *volat alta ad sidera virtus*.<sup>2</sup> In addition to the future Earl of Leicester, the leading performers included Roger Manwood (afterwards Chief Baron of the Exchequer) and Christopher Hatton (subsequently Lord Chancellor), whose romantic career so typical of the England of Elizabeth will be noticed further hereafter.

The following extract from the contemporary Diary of that humble citizen, Henry Machyn, shows that all the pomp and display of these Christmas doings were not confined to the Temple:

“The 27th day of December cam rydyng through London a Lord of Mysrull in clene complett harnes gylt with a hundered grett horse and gentyllmen rydyng gorgeously with chenes of gold and their horses godly trapytt unto the Tempull for ther was grett cher all Crynstynmas . . . and grett revels as ever was for the gentyllmen of the Tempull evere day for mony of the Conselle was ther.”<sup>3</sup>

<sup>1</sup> *Accedens of Armory* (Edit. 1562), 224.

<sup>2</sup> Petyt. MSS. XVII, No. 538, p. 412. The modern rendering of the motto appears to be, *Volat ad æthera virtus*.

<sup>3</sup> Camden Society Pub. XLII, 274.

Regarding these happenings, however, the official Records of the Inner Temple afford little information, giving merely the names of certain officers appointed for the occasion, some acknowledgment of their services and the levy imposed upon members to meet some of the expenses incurred. Thus under the date, December 4<sup>o</sup> Eliz. (1561), is an entry in French: "a ce temps fut un graund et solempne Christmas en l'ynner Temple en que fuerent officers le Lord Robert Duddeley fut Lord Governor, Mr. Onslowe Lord Chauncellor, Mr. Basshe Seneschall, Mr. Coppeley Marshall, Mr. Patten Butler."<sup>1</sup> On the same folio is a record that two special admissions were granted to Edward Basshe, Esq., for his great charges as Steward of last Christmas; while on February 4th come further orders that Masters With, Gaynes, Lucas, and Mauser shall bring in to the House at the next parliament a reckoning of all sums laid out by any at Christmas or Candlemas, for any "maskes, playes, disguysinges or other like"; that Master Hatton shall have a special admission without any payment in respect of his charges as Master of the Game, and that Master Broke shall have likewise such an admission, "in consideracon of certain playes and showes in Cristmas last set furth by hym." Finally, on February 8th, to meet the charges of Christmas, it was ordered that every member of the fellowship, including Benchers, Utter Barristers, and others, should pay 20s.<sup>2</sup>

The increasing number of applicants for admission to the Inns naturally led to an increase in the fines charged on admittance. On July 4th, 1557, the Inner Temple Society had enacted that none in future should be admitted to that House who did not pay 40s. and bring a certificate of his honesty from an Inn of Chancery, testifying also that he had continued there for at least one year and a half, and been a "good lerner and a Moter."<sup>3</sup> This rule was varied in the following February by a further order which exempted from the 40s. fine such persons as came from any of the three Inns of Chancery attached to the Inner Temple, who were to be admitted *gratis*.<sup>4</sup> On November 19th, 1562, a further change was made by exempting from the admission fine sons of Benchers or Utter Barristers of the House, and any person who had been for one whole year in one of the Inns of Chancery attached to the Inner Temple.<sup>5</sup> The next order on the subject was made on January 28th, 1564, and raised the admission fine to the high figure of £5 for all

<sup>1</sup> A.P. I, 149.<sup>2</sup> *Ibid.*<sup>3</sup> *Ibid.* 130.<sup>4</sup> *Ibid.* 132.<sup>5</sup> *Ibid.* 151.

except such as came from an Inn of Chancery belonging to the House.<sup>1</sup> This order was followed on November 24th, 1566, by another, imposing an admittance fine on these persons also, but in their case of 20s. only.<sup>2</sup> These fines were for general admissions, and they continued nominally in force during the rest of Elizabeth's reign. For a special admission the full fine had now risen to £6 13s. 4d.<sup>3</sup> It is evident, however, that except in the case of applicants who came from an Inn of Chancery attached to the House, these fines were too high, for in practice smaller sums, ranging from 20s. to £4, were constantly accepted for general admissions.<sup>4</sup> The fine for special admissions shows a similar instability, but in that case, as the extent of the immunity granted varied, this is less surprising. Later, the fine for a general admission in the case of entrants who did not come from an Inn of Chancery attached to the Inner Temple, became fixed at £3 6s. 8d.; but this was beyond the period now under consideration.<sup>5</sup> The indulgent terms conceded to applicants from Inns of Chancery led to the certificates of these Houses being too easily obtained, and to check this and prevent the Society being defrauded of their proper dues, an order was made towards the close of Elizabeth's reign confining the benefit of the reduced rate to those who had resided for two whole years in an Inn of Chancery.

At the Middle Temple the following fines were enacted on June 2nd, 1568, for general admissions: Those who had spent one year in an Inn of Chancery belonging to the House, 40s.; those who had spent the like time in some other Inn of Chancery, £5; and other applicants, £6 13s. 4d.<sup>6</sup> By a further order of May 5th, 1570, these sums were reduced to 20s., 40s., and 53s. 4d. respectively; <sup>7</sup> while in the following February a further reduction was made by substituting 30s. as the fine to be paid by an applicant from an Inn of Chancery not connected with the Middle Temple.<sup>8</sup> It thus appears that both Houses at this time viewed with special favour applicants for membership who came to them after residence at an Inn of Chancery, though the Inner Temple Society having three such Inns under their immediate control, limited their indulgence in the orders they made to persons coming from their own Inns.

From the year 1568 the Houses of Chancery from which

<sup>1</sup> A.P. I, 156.

<sup>2</sup> *Ibid.*, 160.

<sup>3</sup> *Ibid.*

<sup>4</sup> See e.g. A.P. I, 157, 160, 194, 198, 200, 205, 214, 225; A.P. II, 1, 18.

<sup>5</sup> See Gen. Acct. Bk. I, 169, 270, 296, 307, 308.

<sup>6</sup> D. 81.

<sup>7</sup> D. 89.

<sup>8</sup> D. 93.

the applicants for membership come are regularly stated in the admission entries of the Middle Temple. It is, therefore, possible from that year to calculate the proportion applicants from such Inns bear to other new members. For the twenty years, July, 1568, to July, 1588, the proportion is about three to one. But for the next ten years the figures are very different, the applicants from Inns of Chancery having fallen to about one in every four. It is thus evident that the habit of studying at an Inn of Chancery before joining a House of Court at the close of the sixteenth century was in marked decline.<sup>1</sup>

The Readings continue to hold the chief place in the educational system of the Inns, and the practice still prevails of electing as Summer Reader a member who has not read before, and as Lent Reader one who has already done so. Hence the description of Readers as "single" and "double" Readers which now comes into use. The Readers and Benchers also continue to take an active part in other exercises of learning as is evidenced by an order of the Inner House, made on February 9th, 1560, requiring every single Reader to attend three Moots in every Term, and four Moots in Michaelmas Term, and every Benchers not a Reader five Moots in every Term and six in Michaelmas Term, under pain of a fine of 5s. for every Moot omitted.<sup>2</sup>

At the Middle Temple a new feature of the Readings in this reign is the election of Cupboardmen to attend the Reader in Hall when he delivered his discourses on the Statute of his choice. From a reply made to the Judges in 1594, there is reason to think this office was of earlier origin,<sup>3</sup> but the first recorded appointments to it occur on February 11th, 1568,<sup>4</sup> and thereafter the names of members chosen for the duty are regularly given. The Cupboardmen, of whom four were appointed for each Reading, were senior Barristers who had not yet served in the office of Reader and were stationed at the Cupboard during the Reader's discourses, ready to argue points of law arising thereon. The first or senior Cupboardman seems to have had a *prima facie* claim to be chosen next Autumn Reader. If he refused the office, as having regard to the expense entailed he might well do, he paid a fine, and the option passed to the second, and, failing

<sup>1</sup> At the M.T. from 1551 until 1658, all the admissions appear to be entered in the parliament Minute books; this does not seem to have been the practice at the I.T. But the tendency above noticed no doubt was common to both Inns.

<sup>2</sup> A.P. I, 142.

<sup>3</sup> See also *post*, p. 182.

<sup>4</sup> D. 84.



his acceptance, to the others in order of seniority or antiquity, as the Records phrase it.<sup>1</sup> A Cupboardman who refused to read ceased to be eligible to serve at the Cupboard in future, but until he had the opportunity of exercising the option he appears to have been entitled to reappointment. The system was excellently adapted to maintain the traditions of the Readership, for in this way it must rarely have happened that the Reader elect had not already served in an office which made him thoroughly familiar with the duties he would have to perform.

Cupboardmen were unknown in the Inner Temple, it being the practice there from the earliest date to which the Records extend to appoint regularly two senior members of the Inn to act as Assistants to the Reader during his Reading.<sup>2</sup> These Assistants no doubt discharged a similar duty by debating points of law for the edification of learners.

Cupboardmen who failed to attend at the Reading for which they had been chosen were liable to a fine, nominally 40s., but the amount of which varied.<sup>3</sup> Some of those nominated for the office attempted to discharge the duty by proxy, but this did not meet with approval, and in May, 1584, the following order was made :

“The Cobborde keepers at Reding tymes appointed shall from henceforth appoint no deputies for them without sufficient excuse which shal be well liked of the Bench.”<sup>4</sup>

At a later date this order was confirmed (October 24th, 1600), with the following addition :

“Every suche Cupbord keeper beeing absent shall paye for his fine 40s. according as it hath byn heeretofore accustomed and the Reader from henceforth hath no power to accept of any depute for them or any of them.”<sup>5</sup>

The Cupboardman who refused to read, as a general rule lost his opportunity of becoming a complete Benchers and taking

<sup>1</sup> This in practice seems to have been how the system worked. In theory the Benchers might choose as Reader whomsoever they thought most fit: Brerewood MS. 13.

<sup>2</sup> I.T.R. I, p. xxxii.

<sup>3</sup> D. 108, 112, 115. In June, 1576, a fine of £4 was imposed : D. 120.

<sup>4</sup> D. 167.

<sup>5</sup> D. 300.

part in the government of the Inn, for by his refusal the option passed to those who were his juniors in the Society. As there were weighty reasons for declining the Readership, senior members who had thus passed the time of their Reading and were consequently excluded from the Bench table, were later granted a special table of their own in the Hall. This was done by an order of November, 1595, recorded in Latin, and signed by sixteen Masters of the Bench, which enacted that Masters of the Utter Bar who had passed their time of Reading and had not read, including those who in future should be in like case, should dine and sup from the first day of next term at the upper table on the north side of the Hall, to be called *Mensa Seniorum Magistrorum de le Utter Bar*—Anglice, the Auncientes Table.<sup>1</sup> This order further provided that other Masters of the Utter Bar and fellows might sit there until the table was full.

Writing of this table at a later date,<sup>2</sup> the author of the Brerewood MS. says :

“It is no disgrace for any man to be removed hither for by reason of the great and excessive charge of Readinges many men of great learninge and competent practise and others of less learninge but great estates have refused to Read and are heare placed.”<sup>3</sup>

The burden of Reading also led to many members of the Inner Temple refusing the honour of the Bench. At that Inn, where reading was not a condition precedent to the status of a Benchers, calls to the Bench continue to be numerous, senior members of the Utter Bar being freely selected for the honour. Thus, on July 4th, 1568, no less than twelve gentlemen of the House were called up, the parliament at the same time resolving that every one called to the Bench should be required to take that place upon him, and read (in his turn) or pay £40 for his fine at least.<sup>4</sup> Six of the twelve objected to being called up, and were eventually excused on paying fines of various amounts,

<sup>1</sup> D. 252 ; M.T.R. 358.

<sup>2</sup> Reign of Charles I.

<sup>3</sup> Fo. 14. The Ancients' Table after being long in abeyance was revived in 1876, during the Treasurership of Master Powell, Q.C. It is now placed, not on the north side, but in the centre of the Hall, just below the Bench table, and affords accommodation for eight senior members of the Inn.

<sup>4</sup> A.P. I, 165.

but none approaching the above sum of £40.<sup>1</sup> Having regard to the numerous calls to the Bench of the Inner Temple during the reign of Elizabeth, it is not surprising to find, on January 25th, 1573, when four such calls were made, in addition to three of the preceding November 15th, an entry as to five of these new Masters of the Bench, that their taking of place at the Bench is "thought good to be respited for a tyme for that the place is presentlie so full."<sup>2</sup>

As has been already stated, the expenses of the Readers' Feasts appear to have been borne originally by the Societies. In the Middle Temple prior to this reign the Reader seems himself to have given the necessary instructions for the provision to be made for the occasion. In the summer of 1566, however, a new system was introduced by the appointment of a Steward to provide the Feast and bear the charges.<sup>3</sup> Six months later two Stewards were nominated for this duty, and for the next ten years this was the practice of the Inn.<sup>4</sup> Responsible for the cost of the Feast, the Stewards assumed that, like the Reader, they were entitled to invite guests for the occasion. On May 20th, 1569, however, an order was made prohibiting this under a penalty of £5 for each guest so invited.<sup>5</sup> At the same time steps were taken to limit the expense incurred by the Stewards and by the Reader himself in other hospitality during his Reading, by enacting that the cost of the Feast should not exceed £10, and that venison should not be served to the Company except at the Reader's own mess oftener than two days a week, and then only at dinner. The days first named for this indulgence—Sunday and Thursday—were subsequently altered (June 26th, 1574) to Saturday and Tuesday.<sup>6</sup> These selections avoided the days on which the Reader actually delivered his discourses in the Hall, which by custom were Monday, Wednesday, and Friday. Next, on June 20th, 1572, in further relief of the Stewards, a contribution of 20*d.* was ordered to be paid by each member towards the cost of the Feast;<sup>7</sup> while on February 10th, 1575, it was decided to distribute the burden of the expense by appointing four Stewards, two to be chosen from the Utter Bar and two from the Inner Barristers;<sup>8</sup> which continued afterwards to be the regular practice. With four members of the House responsible for the cost, it was deemed unnecessary to levy contributions from private members, and, accordingly, on

<sup>1</sup> A.P. I, 170. The sums paid ranged from £5 to £20.

<sup>2</sup> A.P. I, 177.

<sup>3</sup> D. 70.

<sup>4</sup> D. 75.

<sup>5</sup> D. 85.

<sup>6</sup> D. 112.

<sup>7</sup> D. 103.

<sup>8</sup> D. 119.

February 10th, 1584, an order was made that henceforth the four Stewards of the Readers' Feast should bear the whole charge thereof equally between them; words being added that the Feast was to be provided in as decent order and as amply as before accustomed.<sup>1</sup> Notwithstanding this last order some question seems to have arisen as to the measure of the Stewards' liabilities, *inter se*, for on June 9th, 1592, when four were again appointed for the Autumn Reading, it was enacted that in future Stewards of the Feast should be "no farther charged but only fyve pounds a mann."<sup>2</sup> In Lent, 1594, when a call of new Serjeants caused the nominated Reader to be displaced for the first week of the Reading by a member of the House summoned to the Serjeant's degree, and in consequence two Feasts were held, a separate quartette of Stewards was appointed for each Reader.<sup>3</sup>

Stewards of the Readers' Feast or Dinner (as it was there called) appear earlier in the Records of the Inner Temple. They are mentioned as early as January, 1544, and from the Lent Reading of 1547<sup>4</sup> two were regularly appointed. Stewards who defaulted were liable in that Inn to a penalty of £10.<sup>5</sup> Here also the expense tended to grow, and levies had to be imposed in relief of the Stewards. The first levy (February 8th, 1561) was 12d.<sup>6</sup> But this proved insufficient, and on June 13th, 1563, the following order was made :

"Forasmuch as the charges of the Reder's dyner be grown untill an extreme burden to the Stewards by reason of the great Resort of the Quene's Majesties Concellors and other veraye many honorable persons and chiefly by reason of the great number and multitude of felowes and comoners within the same house that every felowe of the same house beinge in Comons at any tyme in the latter tyme of the same week when such dyner shall happen to be shall from henceforthe paye towards the susteynyng of the same intolerable charge two shillings to be immediatlye rendered uppon request thereof made to the Stewards of the same dyner and xii<sup>d</sup> to the Stewards of the drynkynge Provided never the less that the Reders of the

<sup>1</sup> D. 173.<sup>2</sup> D. 226.<sup>3</sup> D. 233. Under like circumstances at the Lent Reading, 1581, eight Stewards had been appointed without allocating any of them to either Reader : D. 144.<sup>4</sup> A.P. I, 34, 39.<sup>5</sup> *Ibid.* 128.<sup>6</sup> *Ibid.* 149.



three houses of Chancerye be not charged for the principalls and three others of the same houses, otherwise than they have ben accustomed to be before the making of this Act And of all other Repasters to be levyed 12<sup>d</sup> each person for any repast taken at any suche dyner.”<sup>1</sup>

From this order it appears that representatives of the Houses of Chancery attached to the Inner Temple were regular guests at these dinners, and that the Readers, like the Serjeants, now extended their hospitality to many persons of official importance in the State. At the Inner Temple a distinction was drawn between the dinner and the drinking, special Stewards being appointed for the latter.<sup>2</sup> A practice of which there is no evidence at the Middle Temple.

Modelled no doubt on the customs of the Inns of Court, Readers' feasts were also given in the Houses of Chancery where Utter Barristers performed the Readers' duties. On the expenses of these entertainments also the Benchers of the Inner Temple deemed it necessary to lay a restraining hand. On November 22nd, 1590, they enacted that from henceforth no Reader of any of their Inns of Chancery should expend or allow for the charges of his feast above the sum of £6 13s. 4d. Also that no such Reader should be present at his feast.<sup>3</sup>

Towards the close of Elizabeth's reign the Readers at the Inns of Court began to treat their duties lightly, shorten their Readings, and indulge in excessive hospitality. This attracted the notice of the Judges at Westminster, and in Hilary Term, 1594, proposed orders were sent to the Benchers dealing with the mischief and their opinions invited thereon. Of these orders, Nos. 3 and 4 were as follows :

“ 3. That none be admytted to reade but such as bee esteemed for their learninge and creditts fytt to serve in the common weale and such as have attended the Readinge in the exercises there two yeares before their call to that place unles upon

<sup>1</sup> A.P. I, 153. “ Repasters ” were members not in Commons, but attending at a meal.

<sup>2</sup> On November 3rd, 1602, there is a record of an admittance to the Inn at a reduced fine, because the father of the entrant had been Steward of the Reader's drinking, and “ susteyned greate charges for the credyt and service of this house ”: A.P. II, 46.

<sup>3</sup> *Ibid.* 5.

some reasonable cause of lett to be signified unto the auncientist Justice of the howse or yf none such bee then to the Cheefe Justice for the tyme beeing yf yt shalbe thoughte otherwyse so convenyente: 4. That no single Reader be admytted to reade in the Lente but that the same Readinge bee alwayes supplied by a double Reader as heretofore hath bynn accustomed unles uppon some speciall occasion to bee allowed of by the Justice of that howse or yf none such be by the Cheefe Justices and Cheefe Baron or two of them Unles yt be otherwyse thoughte convenyente.”

The Benchers of the Inner Temple do not seem to have delivered any answers to these Orders, for none are entered on their Parliament Book. The Benchers of the Middle Temple, however, did so, and their answers are here set out as illustrating the practice of the Inn.<sup>1</sup>

“To the thirde they saye that by the auncyent orders yet still continued fower of the auncient Utterbarresters are bounde to keepe iiij vacacions and to stand at the Cupborde iiij Readings nexte before their turne come to Reade and there to argue the Reader’s cases and to keepe Mootes and cases of the howse owt of which iiij the Benchers at their parliament doe choose so neare as they cann the most sufficient mann for learnynge, discretion habilitie and other gifts to be the nexte Sommer Reader. To the fourth they saye the auncyent order of this howse hath bynn alwayes to supply the Redinge in Lente by double Readers which order ys still continued unles there have happened just occasion to supplye that vacacion with a single Reader.”

The Judges further recommended :

“5. That before any be called to Reade a note of the names of three or fower nexte in turne to Reade be delivered to the Justices of the howse where the same shal be or in defaulte of suche Justice to the Cheefe Justice and Cheefe Baron for the tyme beeing to the ende they may gyve their advises therein : 6. That the Readings be holden owte the whole three weekes as

<sup>1</sup> See these orders and the Benchers’ answers, D. 236, 237.

in auneyent tyme was used And that both for the dyett and guests to be admytted in Readings the former good orders in that behalfe taken may be from henceforth duelye observed as they will aunswere uppon their credit to the contrarye."

To these the Benchers replied further :

"To the fifth they saye they never used any such order heeretofore and do thinke that themselves in their parliament in conference together of their knowledges touchinge any Reader to be called maye best discerne touchinge his exercise, touchinge his knowledge, gifts of utterance, discretion and habilitie to mayntayne his countenance,<sup>1</sup> consideringe they have lyved manye yeares before with him. The sixte dothe agree with their aunciente orders and ys nowe verye necessarye to be thoroughly renued and duely observed wherein they will doe their endeavors."

Another proposed order of the Judges issued at this time also had reference to the Readings :

"8. That the Readers bee alwaies moved to make there case shorte not contayninge above two or three poynts at the most And those as much uppon the Statute Reade on as may bee."

To this the Benchers answered :

"To the eighte they saye that so was the auncient order and they doe entende to renewe yt by authoritie of their parliament."

Two years later, when these orders assumed their final form and were issued as agreed to by all the Inns of Court, no mention is made of the Judges being consulted before Readers were chosen, a proposal which evidently found no favour with the Benchers. The Judges then contented themselves with directing that Readers should be chosen for their learning and due keeping of the exercises of their House, that they should continue their Readings three weeks, read thrice a week, and be assisted by Benchers, Barristers, and Vacationers, call few to their table (and these senior members attending the Reading), invite strangers on Sundays only, and avoid excess of diet. Further, they directed that no Reader should have more than eight

<sup>1</sup> Very necessary when arguing a doubtful point.

serving men to attend him, and that double Reading should be strictly observed in every House.<sup>1</sup>

Next in importance to the Readings were the Moots. The Queen's orders of 1574 included the following directions :

"Item none hereafter admitted shall enjoye any chamber or be in Commons unlesse he do exercise Moots and other exercises of learninge within iij yeares after his admission and be allowed a student or Innerbarrester by the Benche: Item none to be Utterbarrester or to contynue Utterbarrester unlesse he do by the space of iij yeares after exercise ordinarie mootings and other ordinarie exercises of lerninge both in Corte and Chauncerie as the Benche shall allowe." <sup>2</sup>

That the Benchers of the Middle Temple Society were in sympathy with this appears from an order they made on February 9th, 1581, as follows :

"In every tyme of vacation the exercise of Moots usuall within the house as abroad shalbe dewly observed and kept both by the Masters of the barre and also other gentlemen uppon payne of disgradinge for such as are of the barre and for others in whom falte shal be founde such fyne or punishment as shalbe thought convenient in that behalf." <sup>3</sup>

The later proposed orders of Hilary Term, 1594, gave further directions on this matter :

"Firste that none be called to the Barre but such as be of convenyent continuance and have used the exercises of the howse as in arguinge of cases puttinge at boltes and keepinge of the Mootes and exercises there three yeares at the Leaste : (9) That in the Mootes both in the howses of Courte and Chauncerye the pledings be rehersed and used as hath bynn of former tymes paste used And thereuppon to goe to the case But not without the pleding drawen pleaded and recited And

<sup>1</sup> See these orders of 1596 : A.P. II, 25. They are not entered on the Middle Temple Minute Book, but appear on the Records of Gray's Inn as signed by the Treasurers of both Temple Inns : Pension Bk. I, 113.

<sup>2</sup> D. 112 ; A.P. I, 179.

<sup>3</sup> D. 150.



that no case in anye Inne of Chauncery do contayne above three poynts or questions at the moste and that the cases be but shorte." <sup>1</sup>

To these the Benchers of the Middle Temple replied as follows :

"To the firste they saye this article ys the auntyent and still contynewed order and use of there howse savinge onlye the certayne tyme of three yeares was never lymytted but a tyme convenyent alwayes allowed and sometymes men of good discrecion beeing of habilitie in lyvinge by office or otherwise and of longe continuance in the howse and such as weare not like to use the Barres in the Courtes at Westmynster have bynn admytted into the societie of Utterbarresters : To the nynth they saye yt is the aunciente order of the howse and they doe continewe yt in their howse and will see yt renewed in their Inne of Chauncery." <sup>2</sup>

Further, it was no doubt to secure the better observance of this ancient use that on November 22nd, 1594, a parliament of the Inn ordered that the puisne Butler should always keep a table or book of the Mootmen doing the exercises of learning in the Reading times and in the Inns of Chancery, and also set down therein the cases argued in the House during vacations with the names of the Mootmen.<sup>3</sup>

Towards the close of Elizabeth's reign there seems to have been a disposition on the part of the junior Barristers and students under the Bar to neglect the performance of the learning exercises, and orders were made in both Inns to check this. At the Middle Temple, on February 6th, 1595, it was enacted that Utter Barristers must keep six vacations after call, and for that purpose be in Commons five weeks every Lent and four weeks every Summer, and that all under the Bar (generally admitted) must keep six vacations next after their admittance and be in Commons three weeks at Christmas, five in Lent, and four in Summer.<sup>4</sup> While at the Inner Temple, on June 15th, 1589, three Utter Barristers were disbarred for neglecting their post-call exercises, and the cases of five others put back for further consideration.<sup>5</sup> In the following year all the Utter Barristers

<sup>1</sup> D. 236.

<sup>4</sup> D. 254.

<sup>2</sup> D. 236, 237.

<sup>5</sup> A.P. I, 225.

<sup>3</sup> D. 243.

of the House under a certain standing were fined 9s. each because during the preceding Lent, to the "great scandall discreditt and hurte" of the House, the exercises of learning abroad could not be kept through the absence of Utter Barristers;<sup>1</sup> and, on May 25th, 1600, their attendance at Moots and other exercises was ordered so long as they were under five years' continuance of the Bar.<sup>2</sup>

The Inner Temple Benchers from time to time granted precedence at the Bar to special persons. Thus an order was made on January 28th, 1582, admitting Master Radford to the chief place of the Bar,<sup>3</sup> and another five months later, on June 17th, at the request of the Lord Chancellor (Sir Thomas Bromley, Kt.) as follows :

"that Willm Glaseor esquire Vyce Chamberlayne of the Countye Palatine of Chester shal be from hensforth accepted reputed and taken for an Utterbarrester and to be of the Utter barre within this house and ys allowed to take place at the barre before any of the barre savying Lawrence Radford esquire to whom the chief place there is before this tyme ordered." <sup>4</sup>

Such precedence could only have effect within the Society and as between members of the House. Its primary object may have been to give the favoured individual the right to occupy a special place at the Bar table in Hall.

As already stated, the early Minutes do not mention by whom calls to the Bar were made. Probably the Benchers in this matter left a large discretion to the Reader, who, as the chief Instructor of the Society for the time being, could best judge which of the students attending his readings and the Moots were sufficiently advanced in learning to merit this degree. That the Reader, however, did not always discharge this duty to the satisfaction of the Bench appears from the first definite reference to the subject at the Middle Temple, which occurs in an order of November 9th, 1565, that no Reader shall promote any to be "Utterbarester" without the assent of parliament under pain of a fine of £10, to be paid by the Reader, and loss of his degree by the person promoted.<sup>5</sup>

It might seem from this order that the intention was to prevent any calls being made in future without the sanction of

<sup>1</sup> A.P. II, 3.

<sup>4</sup> *Ibid.* 204.

<sup>2</sup> *Ibid.* 37.

<sup>3</sup> A.P. I, 203 (supremum locum barre).

<sup>5</sup> D. 64.

the Benchers in parliament being first obtained. But two years later, in June, 1567, authority was granted to Master HIPPESLEY as Summer Reader to call whomsoever he pleased "ad gradum de lez Utterbarristers";<sup>1</sup> and after this, for a time, successive Readers were expressly authorized to choose two Utter Barristers during their Readings. Mr. Peter Rosse, the Summer Reader in 1572, however, raised the whole question anew. Indeed, so irregular were his proceedings that in the following October a parliament decreed his expulsion from the Inn for choosing certain Utter Barristers not only contrary to the ordinances of the Society, but also to the orders of the Queen's Privy Council, and causing great dissensions amongst the members. Further, those he had called were degraded, and his calls declared to be of no effect (*nullius in roboris*).<sup>2</sup> How many he called does not appear, as there is still no record of the names in the existing books. Master Rosse was readmitted to the Inn and his chamber, and allowed a place on the Bench shortly after, probably on expressing his contrition, but without a voice in government and under pain of a fine of £13 6s. 8d.<sup>3</sup> He was not restored to the full privileges of a Bencher until June 17th, 1586, when his turn came to be nominated next Lent Reader.<sup>4</sup>

The Queen's Orders of 1574 contained (*i.a.*) the following direction with regard to calls to the Bar: "Item none to be called to the Utterbarre but by the ordinarie Counsell of the house in their generall ordinarie Counsell in the terme tyme."<sup>5</sup> On June 26th of the same year comes the first existing record of calls to the Bar at the Middle Temple. It is in Latin, and seems to comply with the Queen's direction. It reads as follows: "*Item ad hoc parliamentum Magister Reginaldus Braye et Magister Richdus Moldworth vocati et electi sunt ad gradum de le Utter Barre per assensum omnium Magistrorum de Banco.*"<sup>6</sup> It was not long, however, before calling to the Bar was again delegated to the Reader. Mr. Edward Fenner had served as Autumn Reader in 1576, in the following year he was called to the degree of Serjeant-at-Law and invited to read again (June 21st, 1577). He did so at the beginning of the Autumn Reading, being authorized to call as many and such as he pleased to the degree of "le Utter Barre."<sup>7</sup> He appears to have called seven, but one of the names is left blank. After this the orders about

<sup>1</sup> D. 78.<sup>2</sup> D. 103.<sup>3</sup> D. 105.<sup>4</sup> D. 182.<sup>5</sup> D. 112.<sup>6</sup> *Ibid.*<sup>7</sup> D. 124; "ordinat. est quod Mr. Fenner serviens clectus ad gradum de le Utter Barre vocet quantos et quales sibi placuerit": Justice of Q.B. 1590.

calls by Readers are very contradictory and point to an unsettled practice. On June 28th, 1585, every Reader was empowered to call two gentlemen to the Bar; <sup>1</sup> on June 30th, 1587, it was enacted "there shalbe none called to the barre from hencefoorth by any Reader notwithstanding any order before this made"; <sup>2</sup> on October 25th every Reader was again authorized to call two; <sup>3</sup> on February 7th, 1588, every double Reader was given full power and authority to call four, and every single Reader two, and not above; <sup>4</sup> while on February 11th, 1591, the Reader was again empowered to call two sufficient students to the Bar, "yf he lyst and not to exceede any moore." <sup>5</sup>

In Hilary Term, 1594, came the Judges' orders to the four Inns of Court, which were referred to the Benchers for consideration and answer. Regarding calls to the Bar these orders recommended as follows: <sup>6</sup>

No. 2. "That not above three or fower at the moste bee called to the Barre at any Redinge and those to be called by the Reder where in tymes paste yt hath bynn so used of suche as hee will stand to answere for And yet the same not to stand but for such of them onelye as shalbe allowed of by the Bench at the firste parliament of the nexte Terme after the call or otherwise by the graund Counsell where yt hath bynn so used And the names also of those that shalbe so called to be delivered by the Reader or Treasurer of the howse the sayde nexte terme to the auncientest Justice of that howse yf none such bee then to the Cheefe Justice for the tyme beeing."

To this the Benchers of the Middle Temple replied as follows: <sup>7</sup>

"To the second they saye that of auncyent tyme the Utter barresters weare onelye called by the Reader and seldome above fower at one tyme But after by an acte of their parliamen (Anno 7<sup>o</sup> Eliz. Reginæ) yt was ordayned that no Reader shoulde call any Utterbarrester unles yt weare firste assented unto in parliament and appoynted howe manye hee shoulde call, sythence which tyme by the orders established by the commandment of the Queens Matie with the advise of her privye Counsell and of

<sup>1</sup> D. 177.

<sup>2</sup> D. 188.

<sup>3</sup> D. 196.

<sup>4</sup> D. 200.

<sup>5</sup> D. 223.

<sup>6</sup> D. 236.

<sup>7</sup> *Ibid.*



the Justices (Anno 16 E. Reginæ) and renewed (Anno 26 E. Reginæ) none is to be called to the Utterbarr but by the ordinarye Counsell of the howse in their generall ordinarye Counsell in the Terme tyme synce which tyme (Anno 32 E. Reginæ) by parliament of this howse yt was licensed to a double Reader to call iiij onlye and a single Reader but ij suche good students as they shoulde fynde meete which the Benche notwithstandinge myght yf they sawe cause disallowe as hath bynn putt in use divers tymes And the Benche hadd libertie notwithstandinge suche license to call suche good students as be not called in due tyme by the Readers and yet deserve the preferment of the Utterbarre."

After this, calls at the Middle Temple follow a more regular course, and, where made by the Reader, are subject to confirmation by parliament.<sup>1</sup> In illustration of this may be cited the case of Walter Moyle, fined £3 6s. 8d. on May 26th, 1598, for practising as an Utter Barrister without such confirmation.<sup>2</sup> Moyle's case is also of interest on another ground. When first confirmed he had not been admitted to the Society seven years. On discovering this the Bench revoked their confirmation until that time should have elapsed.<sup>3</sup> Thus, at the close of the sixteenth century, seven years' preparation in legal learning was required for call to the degree of the Utter Bar at the Middle Temple.

The first light on calls to the Bar at the Inner Temple comes from a record of that Inn dated November 15th, 1556, which sets out the following resolution :

"Forasmuche as the Utterbar of late not havynge any authoritye have taken upon them to call suche as they wold to the Utterbar contrary to the old and auncient order of this house whereby the Utterbarre hath byn muche decayed of late tyme, therefore to thintent that suche hereafter may be Utterbaresters as the benche in tyme to come may be better furnished t is ordered and decreed by thauthorytie of this parliament that none shall come to the Utterbar or be hereafter Utterbaresters in this Compaynye but suche as shalbe called by the benche

<sup>1</sup> D. 247, 258, 262, 280, 283, 288, 290, 296, 300, etc.

<sup>2</sup> D. 279.

<sup>3</sup> D. 250, 258.

onely and that from hensforthe the benche every yere once or twyse at theyre pleasure shall call to the Utterbar suche and so many as they shall think mete and convenyent And that all those which shall hereafter be thus called shall come before the benche at the borde's end or elsewhere at thappoyntment of the benche there to understand of the auncient bencher there present the Dutye of an Utterbarester." <sup>1</sup>

It appears from this order that the Inner House had an old and ancient rule by which the practice in regard to calls there had formerly been regulated, and which no doubt confined all authority in the matter to the Bench and the Readers. Probably the extravagant irregularity here complained of resulted from a too limited exercise (as the junior members thought) of that authority. Whatever the cause the trouble does not seem to have been cured by this resolution, for seven years later, on May 2nd, 1563, the Benchers are found complaining of those who of their presumptuous mind take upon them the place of Utter Barrister, and once more they enacted that none should be accounted Utter Barristers in that company or have place amongst them in that house unless thereunto first called, examined, and enabled by the consent of the whole Bench for the time being.<sup>2</sup> Further, on February 9th, 1566, they resolved that none should be called henceforth to the Utter Bar at the Inner Temple but by parliament only, and in the Term time.<sup>3</sup> Thus establishing the practice which has since prevailed. Further, it is not until the year last mentioned is reached that any record is found in the Acts or Minutes of the Benchers of a call to the Bar at the Inner Temple. The first entry of this kind is dated November 3rd, 1567, and reads as follows: "Mr. Hugh Hollingshed is appoynted to be an Utterbarrester."<sup>4</sup> It will be noticed the record is in English; thus initiating the practice followed at the Inner Temple, where the calls were not recorded in Latin. The form of words, however, is not the form subsequently used, which is generally "called to the Utterbarr (or to the barr) and to be an Utterbarrester of this house." In July, 1587, eight years' continuance was insisted upon at the Inner Temple for call to the Bar.<sup>5</sup>

<sup>1</sup> A.P. I, 127. The version of this order given in I.T.R. I, 187, 188, renders the word "Utter" as "Outer"; and this is many times repeated elsewhere. No such word will be found in the original Records.

<sup>2</sup> A.P. I, 152.

<sup>3</sup> *Ibid.* 160.

<sup>4</sup> *Ibid.* 162.

<sup>5</sup> *Ibid.* 217. Call postponed till time completed.

It appears that illicit means were sometimes employed to obtain the degree, gentlemen suing for it by noblemen's letters and otherwise. Both Inns found it necessary to prohibit this being done.<sup>1</sup> In June, 1580, the Benchers of the Inner Temple ordered all former orders to be put in force which had been set down "for ambitious sekrs to come to the barr by letters or Forein messages," adding, however, that anything done by great men of the House and others in Commons was not to be considered within this order.<sup>2</sup> Next year they further enacted that gentlemen for whom such letters were sent should "from hens-furthe be utterly disabled to receyve any degree within this house."<sup>3</sup> Lord Chancellor Hatton and the Earl of Leicester seem to have been active in this way; but as great men of the House came within the exception.<sup>4</sup> Indeed, so great was the deference paid to the Earl's opinion that in one case a call was made conditional "so that my Lord of Leicester thynke that he is a mete man for that place."<sup>5</sup> The Judges' proposed Orders of 1594 also dealt with this matter as follows:

"That none bee called to the Barre by any letters, corrupcion, or reward uppon payne of expulsiinge of the Reader that calleth any suche and the partie so called owte of the howse and fellowshippe."<sup>6</sup>

It is in this reign that the first records occur of members being elected Associates to the Bench.<sup>7</sup> At the Middle Temple this was done under an order (in Latin) of November 26th, 1568, which provided that all who had paid a fine for the omission of their Readings, if thereafter promoted to the Bench on account of their age, skill in Law, or dignity of office, should be considered as Masters of the Bench, except that they should have no voice, place, or seat in the parliaments of the Inn or in discussing its affairs elsewhere, but take their part in the Moots as Masters of the Bench *ex antiqua consuetudine solent et debent*.<sup>8</sup>

The first Associate was William Periam of the Utter Bar, so elected June 21st, 1577.<sup>9</sup> He had been a member of the House

<sup>1</sup> D. 139, 145; A.P. I, 174.

<sup>2</sup> A.P. I, 196.

<sup>3</sup> *Ibid.* 203.

<sup>4</sup> *Ibid.* 216.

<sup>5</sup> *Ibid.* 209 (February 9th, 1583).

<sup>6</sup> D. 236.

<sup>7</sup> At Lincoln's Inn Associates were elected earlier: Bl. Bks. I, 325 (1558); see also 350, 360.

<sup>8</sup> D. 83; M.T.R. 166.

<sup>9</sup> D. 124; M.T.R. 217.

twenty-four years.<sup>1</sup> Appointed Cupboardman on four occasions he had been three times fined for failing to attend. Chosen Autumn Reader in 1574, he seems to have refused the duty, for another occupied the office, and on November 8th he was fined for not reading.<sup>2</sup> His subsequent career was a successful one. Created Serjeant-at-Law in 1580, he was appointed a Justice of the Common Pleas in 1581, and Chief Baron of the Exchequer in 1593. An office which he held till his death in 1604.<sup>3</sup>

The next Associates were Thomas Morgan and Richard Hackluyt, elected May 12th, 1585.<sup>4</sup> Morgan had joined the Society October 26th, 1551, and was therefore of thirty-four years' standing. He had been fined in 1571 and 1577 for not Reading.<sup>5</sup> Hackluyt had been a member of the Inn for thirty years, and still held a chamber in it at his death in 1591. He was deeply interested in geography and travel, and in the year of his election as Associate published a treatise on a voyage intended towards Virginia.<sup>6</sup> He long shared an upper chamber in Inner Temple Lane near the church,<sup>7</sup> and it was probably there that he discoursed to his young cousin of the same name, then a lad at Westminster School, on the subject of his favourite study, and thus planted in the boy's mind seed which later bore rich fruit in the famous book of voyages.<sup>8</sup>

At this election of Associates it was further resolved that "none from henceforth shalbe in like sorte associate excepte he firste pay the some of tenne pounds at the least in plate or such lyke provision for the furniture of the Bench Table if he be noe Reader." A not unreasonable condition in view of the expense incurred by those who as Readers qualified for admission to the Bench.<sup>9</sup>

Other elections followed, George Gascoyn on May 26th, 1587, William Walter on May 9th, 1589, and Fabian Phillips on June 26th, 1590.<sup>10</sup> All were of long standing in the House. Gascoyn and Walter had both been fined for not reading.<sup>11</sup>

<sup>1</sup> Since April 28th, 1553 : D. 12.

<sup>2</sup> D. 111, 112. The amount is left blank.

<sup>3</sup> D. 139 ; Foss, VI, 173.

<sup>4</sup> D. 175.

<sup>5</sup> D. 3, 98, 125.

<sup>6</sup> D. 17, 217 ; Mr. C. E. A. Bedwell's *Brief History of the Middle Temple*, 36.

<sup>7</sup> D. 408.

<sup>8</sup> See *Epistle Dedicatorie, Hakluyt's Voyages* (Edit. 1598).

<sup>9</sup> D. 175.

<sup>10</sup> D. 188, 202, 210.

<sup>11</sup> D. 147, 157.



Phillips appears to have held the offices of Recorder of Carmarthen and a Justice of North Wales.<sup>1</sup> Two other Associates elected in this reign were Sir Robert Napper (May 2nd, 1593) on being knighted by Queen Elizabeth,<sup>2</sup> and Master George Carew (October 29th, 1602), a Master in Chancery, who later acted as a Commissioner of the Union with Scotland and as Ambassador at the Court of France.<sup>3</sup>

It was also the custom to occasionally elect Associates of the Utter Bar. Persons so elected were entitled to sit at the Bar table and take their commons with the Utter Barristers. Master Christopher George was thus elected, November 20th, 1590. He had been admitted to Clerks' Commons in February, 1552, and was therefore of thirty-eight years' standing in the House.<sup>4</sup> His name occurs frequently in the Records.

Associates to the Bench were also sometimes chosen at the Inner Temple, though the more liberal system of recruiting the Bench which there prevailed probably left less occasion for such elections. Two members of the Inn were so elected on April 28th, 1588, William Nelson and Laurence Radford. Their call to the Bench is recorded in the following terms: "Are called to the benche and to take their place as they come and to have no voice unlesse they bee demanded bie the benche theire opinion accordinge to thold order."<sup>5</sup> Each of these gentlemen was at this time a Prothonotary of the Court of Common Pleas.<sup>6</sup>

In view of the strong religious feeling of the age and the dangers which beset Elizabeth's throne from the intrigues of Popish plotters rendered formidable by the backing of foreign Powers, it is not surprising to find repeated entries in the Minutes of the Inns dealing with conformity and directed against Romanists. At the beginning of the reign an Act had been passed imposing the oath of the Queen's supremacy spiritual and temporal (1 Eliz. c. 1, § 19). This was followed in 1562 by a further enactment for the assurance of the Queen's royal power over all estates and subjects within her dominions

<sup>1</sup> Welsh Judges, W. R. Williams (1899), 88, 89.

<sup>2</sup> D. 229. The record is in Latin, and, as briefly rendered in M.T.R. 332, suggests Napper was a full Benchler. The side note is "Napper Miles Associat."

<sup>3</sup> D. bet. 121 and 122, 316; also D.N.B. IX, 50.

<sup>4</sup> D. 12, 214.

<sup>5</sup> A.P. I, 220. The "old order" suggests this was not a new departure, though the Records do not seem to afford any evidence of an earlier election of Associates. The election of Thos. Gawdy (January 28th, 1545, A.P. I, 112) being evidently as complete Benchler, for he at once took part in the government of the Inn, and was elected Reader November 6th, 1547: A.P. I, 43.

<sup>6</sup> A.P. I, 202, 208.

(5 Eliz. c. 1), which required (§ 5) the oath of supremacy to be taken (*i.a.*) by

“all manner of person and persons that have taken or here after shall take any degree of learning in or at the common laws of this Realm as well Utter Barresters as Benchers, Readers, Ancients in any House or Houses of Court And all principal Treasurers and such as be of the Grand Company of every Inn of Chancery and all Attornies Protonotaries and Philizers towards the laws of this Realm.”

After this the taking of the oath by Readers when entering on their office, and by Utter Barristers, must have been common form at the Inns of Court, though no general order seems to have been made concerning it at the Temple.<sup>1</sup> At a much later date (July 5th, 1590) a record of seventeen calls to the Bar at the Inner House contains the words, “they and everie of them to take the othe of obedience at suche time as the benche of this howse shalle thinke meete.”<sup>2</sup>

As Elizabeth’s advisers regarded the Inns of Court as much infected with “Poperie,” certain members of the Temple Societies in 1569 were “convented” before the Commissioners for Ecclesiastical Causes and interrogated regarding their religion. One of the questions put to them was whether they orderly attended church on Sundays. To this the answer of one of the Middle Templars is recorded as follows: “hathe seldome gon to the Church by reason of the multitude of causes sins he was a practytioner. But he saith his prayers pryvatly in his chamber.”<sup>3</sup> Whether this satisfied the Commissioners the record does not say.

The Queen’s orders of 1574 included the following:

“Item none to be suffered to have any chambers or to be in Comens in any of the howses of Corte which upon publique admonicion once gyven by any Reder Bencher or Utterbarrester doth not come and remayne at the usuall comen praiers at the churches and chappells of the same howse Item none to be admitted to pleade at any the Cortes at Westminster or to subscribe any accon Bill or plea unlesse he be a Reader or Bencher

<sup>1</sup> Contra, Lincoln’s Inn: Black Bks. I, 370

<sup>2</sup> A.P. II, 4.

<sup>3</sup> State Papers, domestic (Eliz.), LX, No. 70.

in Corte or fyve yeres Utterbarrester and contynuinge that tyme exercise of learninge or a Reader in Chauncerie two yeares at the leaste and uppon admonicion as aforesaid shalbe at Comen praiers as afore is limitedt : Item none to be allowed to pleade afore the Justices of Assises excepte he be allowed for a Pleader in the Cortes at Westminster or shalbe allowed by the Justices of Assises to pleade before them And uppon admonicion as aforesaide shalbe at Comen praiers as is aforesaide.”<sup>1</sup>

Notwithstanding the division of opinion which must have existed in the Temple on questions of religion the Benchers accepted, in the orders they made, the policy of the Queen’s advisers, but how far these were actually enforced remains uncertain. Thus, on November 25th, 1580, a Middle Temple parliament enacted that all members of that Society should receive the Communion three times a year. Further, they ordered one of the Butlers to take notes every Sunday and holy day what gentlemen were absent from church and make certificate thereof to the Masters of the Bench or, in their absence, to the senior Utterbarrester, that absentees might be amerced who refused to come to the church in due order.<sup>2</sup> Three years later they ordered words to be inserted in the bonds of new members pledging them to conformity.<sup>3</sup> On June 21st, 1588, eight members of the Inn were expelled “for ther obstinacye in that they beinge admonished by order from the Benche to comunciate at a certen tyme appointed them in the Temple Church did notwithstanding absent themselves and wold not.”<sup>4</sup> This was the year when England had to face the peril of the Spanish Armada, and at this time Richard Hooker was Master of the Temple. One of those expelled (Sibthorpe by name) successfully made suit to be restored, showing his detestation of the popish religion, and the Benchers being satisfied that in his case they had acted upon erroneous information of the Butler. Another, Richard Walter, made like suit, and was directed to use conference touching his religion with Master Hooker, and obtain from him a certificate of his reformation and that he had received the communion. He complied with these conditions, and was

<sup>1</sup> D. 112 ; A.P. I, 179 ; Acts of Council, VIII, 247.

<sup>2</sup> D. 142.

<sup>3</sup> D. 163 : “Quod Templi Templum frequentant et quod ibi toties et tot cene Domini sint participes uti per injunctiones domine Regine et de jura Anglie debent.”

<sup>4</sup> D. 194.

then required to make in writing under his hand a detestation of all popish Religion and deliver the same to the Treasurer, after which he also was restored and readmitted to Commons.<sup>1</sup>

Finally, on June 18th, 1602, it was enacted that

"Everye Utterbarrister and others the fellowes of this house lyinge within the howse or in the parson's buyldinge or beinge in Commons at anye tyme within the yeare shall receive the Communion in the Temple Church once at the leaste in everye such yeare," on pain of a fine of 40s. or the loss of his chamber at the election of the Bench, and for such his offence by the space of two years be expelled the house and fellowship.<sup>2</sup>

The Records of the Inner Temple also afford many illustrations of the policy of enforcing conformity in the Inns with the established religion. In May, 1569, the Queen's Council by letters directed to the Ancients and Benchers ordered certain members of the House for their contempt in not resorting to the Temple Church or other place of common prayer at the accustomed time, and not receiving the blessed communion at time convenient, but using other rites and services prohibited by the laws of the Realm, to be excluded from Commons and to forbear to practise as counsel until they had reconciled themselves and amended their defaults; the same to be testified by the Bishop of London.<sup>3</sup> As they remained obdurate and showed no sign of amendment, in Trinity Term, 1570, by order of the parliament of the Inn, they were "expulsed from the Society of the Inner Temple for ever"; and this order on November 23rd, 1572, was confirmed and re-enacted because no record of it had been entered when formerly made.<sup>4</sup>

On May 15th, 1580, a general order of the Bench directed the orders and laws made for pleading at Westminster, and the residue of the orders made by the Queen's Council in 16 Elizabeth (1574) to be published on the first day of next Term for an admonishment, and thereupon to be executed accordingly.<sup>5</sup> While in November of the same year there is the following entry in the Benchers' Minutes:

<sup>1</sup> D. 196, 197, and 200.

<sup>2</sup> D. 314.

<sup>3</sup> A.P. I, 167; I.T.R. I, 252, 253; Petyt MSS. No. 538.

<sup>4</sup> A.P. I, 173, 174; I.T.R. I, 266, 267.

<sup>5</sup> A.P. I, 195.



“Touching the mocion made yn the behalf of Master Hugh Wyott for his preferment to be called to the Utterbarr it is now ordered it shalbe moved again the next Terme with good lykeli-hood of speed so thatt he yn the meane tyme do receive the holy comunyon here in Temple Church in the terme tyme.” <sup>1</sup>

That Wyott complied with the condition appears from a further record of February 12th, 1580, which states that having received the Holy Communion in Term time, Master Hugh Wyott shall from henceforth “be one of the Utterbarr of this House.” <sup>2</sup>

The fear of the Spanish Armada seems to have stimulated the Inner Temple Benchers to further action in the matter of conformity, for in June, 1588, they passed another order on the subject :

“Every gentleman of this house that shalbe in Commons there or lye in any chamber there by the space of one weeke and shalbe absent from the service in the Temple Church on the Sabaothe daie in the same weeke wherein he shalbe so in Commons or lye in the house shall forfeyte and paie to this house for every such defaulte 12<sup>d</sup> excepte he shall have such reasonable excuse as by the Benche of the house shalbe allowed of.” <sup>3</sup>

Twelve years later (February 8th, 1600/1), by the advice of the Lords the Judges, it was again

“enacted ordered and decreed that all the gentlemen fellowes of this Socyetye beinge in Commons or lodginge within the house shall ordynarylie come and repaire unto the churche within the same house and there in the same churche shall hear Devyne Service and Sermons at the usuall Dayes and Tymes when suche Devyne Service and Sermons are there exercised unlesse they be hindered by sicknes or have some other reasonable cause to the contrarye And moreover shall once at the leaste in everye yeare within the said churche receave the Holye Communion.” <sup>4</sup>

There were still daily services in the Temple Church which served the purposes of a college chapel for the two Inns, and in July, 1582, certain orders were agreed upon by both Houses

<sup>1</sup> A.P. I, 198.

<sup>2</sup> *Ibid.* 200.

<sup>3</sup> *Ibid.* 221.

<sup>4</sup> A.P. II, 39, 40.

in regard to these.<sup>1</sup> One order which concerned the hours of service assumed habits of early rising, which, however in keeping with the life of a time when Coke is reputed to have usually risen at three in the morning,<sup>2</sup> and Parliamentary Committees met at 5, 6, and 7 a.m.,<sup>3</sup> could hardly be relied upon under modern conditions. The hours it fixed for the ordinary morning services were not earlier in Term time than 6.30, and out of Term than 7 o'clock. Another order authorized the appointment of overseers (two gentlemen from each House) to note the attendances at the church and the absences of members who did not usually come and resort there, and also to see that good and decent order was kept in the church during the time of divine service. The selection of these overseers was entrusted in the first instance to the Master (Dr. Alvey), but they were also required to be "such as the Benchers of the same house shall well lyke and allowe of."<sup>4</sup> It was their duty to report offenders to the Master, and if such did not reform themselves on his private admonition to disclose their names to the Benchers that further order might be taken with regard to them as should be thought meet and convenient.<sup>5</sup> Another order directed "that a butler of every howse shalbe appoynted to kepe the quyre dore that no woman come into the said quyre and moreover that they the said butlers do ther endeavor to kepe out of the said quyre all other strangers except noblemen and knyghts."<sup>6</sup> Further, for the encouragement of the members' liberality, it was ordered that "a standinge box well bounde with yron" should be set up in some convenient place within the church at the charge of both Houses for such as had any disposition to give to the poor to put their money in. Each Treasurer was to have a key for this box, and the money placed in it was to be given to the relief of prisoners or such other charitable uses as the Benchers thought convenient.<sup>7</sup> These orders were made when Sir John Popham, her Majesty's Attorney-General and Speaker of the House of Commons, was Treasurer of the Middle Temple.

During Elizabeth's long reign five clergymen held the office of Master of the Temple. The first of these was William

<sup>1</sup> A.P. I, 205; D. 154.

<sup>2</sup> Woolwrych, *Life of Coke*, 195.

<sup>3</sup> *Com. Journ.* I, 96, 97, 99, 102, 111, 115, etc.

<sup>4</sup> A.P. I, 205.

<sup>5</sup> D. 153, 154; also A.P. I, 205.

<sup>6</sup> D. 154.

<sup>7</sup> D. 153, 154. Such a box till recently was still fastened to the church wall close to the west door.

Ermestede. Appointed by the Order of St. John of Jerusalem, he had continued in office both under Edward VI and Queen Mary. Undisturbed by Elizabeth he was still Master of the Temple when he died in 1559. His successor was Dr. Richard Alvey, at one time Fellow of St. John's College, Cambridge.<sup>1</sup> A distinguished scholar and of exemplary life, Dr. Alvey's character has been thus drawn by Isaac Walton: "A man of a strict life, of great learning and of so venerable behaviour as to gain such a degree of love and reverence from all men that he was generally known as Father Alvey."<sup>2</sup> He held the office for twenty-five years, till his death in the summer of 1584. At the time of his decease the Reader or Lecturer of the Temple Church was Walter Travers, also a Cambridge scholar of repute and a fellow of Trinity. He was not, however, in Anglican Orders, having been ordained at Antwerp, and held extreme Calvinistic opinions. Travers had considerable pulpit gifts, and these a prolonged illness which incapacitated the Master had given him ample opportunity of displaying in the Temple Church. Hence many who shared his Puritan views would have welcomed his appointment as Master on the death of Dr. Alvey. But he would not submit to re-ordination as an Anglican divine, and Whitgift, Archbishop of Canterbury, accordingly opposed his appointment. He was, therefore, passed over, and the Mastership, on the advice of Dr. Sandys, Archbishop of York, conferred by the Queen on Richard Hooker, a graduate of Corpus Christi College, Oxford, a profound scholar and later famous as the author of the "Laws of Ecclesiastical Polity."<sup>3</sup> Hooker, after holding the office for six years, resigned it in 1591 and withdrew to a country living. The next Master was Dr. Nicholas Balgay, Fellow of Magdalen College, Oxford, and a Canon of Salisbury. He presided over the Temple Church till his death in 1601, when he was succeeded by Thomas Masters, second son of Richard Master, M.D., of All Souls' College, Oxford, who, forsaking divinity for medicine, had attained great reputation as a skilful practitioner under Elizabeth and was Court Physician to the Queen.<sup>4</sup> At Oxford Thomas Masters graduated

<sup>1</sup> Appointed Master February 13th, 1559. For some account of Dr. Alvey see D.N.B. I, 350.

<sup>2</sup> Lives (Richard Hooker), Edit. (Bell) 1864, 165.

<sup>3</sup> Hooker's appointment is mentioned February 7th, 1584, in a minute of parliament. The date usually given is March 15th, which may have been the date of his patent from the Crown: see A.P. I, 211.

<sup>4</sup> D.N.B. XXXVII, 22. In the M.T. Records the son's name is spelt Masters, which is not apparently the form used by his father: see State Papers Dom. (Eliz.), CXLI, No. 33; Cal. 1547-80, p. 672.

from St. John's College and became a Fellow of Merton. He held the Mastership of the Temple for twenty-seven years.

Of these Masters of the Temple by far the most distinguished was Richard Hooker, whose tenure of the office, though comparatively short, is of special interest because out of the controversies into which it drew him, was born his famous work on the Laws of Ecclesiastical Polity. Hooker was an admirer of Calvin, and to some extent in sympathy with his theological opinions, but by no means prepared to endorse all of them, and this brought him into conflict with the Reader Walter Travers, who was disposed to out-Calvin Calvin and imbued with a zeal which knew no restraint. The result was that the Temple pulpit began to speak with two voices. "As St. Paul withstood St. Peter to his face," says Isaac Walton, "so did they withstand each other in their sermons; for as one hath pleasantly expressed it, 'the forenoon sermon spake Canterbury; and the afternoon Geneva.'" <sup>1</sup> To lawyers accustomed to live by disputation this state of affairs must have proved highly attractive, and it is not surprising to learn that the church became crowded with Judges and eminent Counsel eager to follow the fortunes of the theological battle. Hooker had the profounder learning and greater reasoning power, but his adversary far outshone him in ornateness of delivery. For Hooker's style, says Fuller, was prolix and his sentences involved, so that while he made good music with his fiddle and stick alone, he lacked rosin, having neither pronunciation nor gesture to grace his matter. <sup>2</sup> In consequence, as the dispute went on, "some say the congregation in the Temple ebbed in the forenoon and flowed in the afternoon." It is pleasing to know that the usual acerbity of theological warfare was wanting and that this strange controversy was carried on with perfect good feeling on both sides, each disputant respecting while controverting the opinions of the other, and not doubting the sincerity of his opponent. Probably this good feeling was helped by the circumstance that in a sense the two divines were connected by marriage: the sister of the Master being the wife of John Travers, the Reader's brother. But the scandal of the Master of the Temple being

<sup>1</sup> Lives (Hooker), Edit. 1864, 186. The quotation is from Thomas Fuller.

<sup>2</sup> Worthies, 1662 (Devon), 264. "His voice was low, stature little, gesture none at all, standing stone still in the pulpit, as if the posture of his body were the emblem of his minde immoveable in his opinions. Where his eye was left fixed at the beginning it was found fixed at the end of his sermon. In a word the doctrine he delivered had nothing but itself to garnish it": Church Hist. Bk. IX, p. 216.



persistently contradicted from his own pulpit by his subordinate officer, however entertaining for the Bench and Bar, could hardly be regarded with the same complacency by episcopal authority.

"At the building of Solomon's Temple," writes Fuller, "neither hammer, nor axe, nor tool of iron was heard therein, whereas alas in this Temple, not only much knocking was heard but (which was the worst) the nailes and pins, which one master builder drave in, were driven out by the other . . . to the disquieting of people's consciences, the disgrace of the ordinance, the advantage of the common enemy and the dishonour of God Himself."<sup>1</sup>

Archbishop Whitgift accordingly interposed and inhibited the Reader from further preaching on the ground that, lacking Anglican Orders, he had not obtained a licence to preach. The arguments of Travers, however, bore a fruit he can hardly have anticipated, for from the study and reflexion required to refute them, as Hooker himself has stated, sprang the masterpiece with which his name will always be associated. The great work, however, was not finished in the Temple, from which Hooker, finding it an uncongenial residence, retired, as already stated, to a country living. "I am weary," he wrote to Archbishop Whitgift when seeking a transfer to another living, "of the noise and oppositions of this place; and indeed God and Nature did not intend me for contentions, but for study and quietness."<sup>2</sup>

Hooker's bust may be seen to-day in the choir of the Temple Church, supported by a bracket modelled to represent two volumes of his famous work. It shows him wearing the pointed beard and moustache of his time. Round the neck is an Elizabethan ruff. His head is covered by a skull cap, upon which reposes a square academic cap. Of the many eminent men who have adorned the office he held, he alone has been honoured by such a memorial.<sup>3</sup>

The Temple Church in Elizabeth's reign was often used for

<sup>1</sup> Church Hist. Bk. IX, 217.

<sup>2</sup> Walton's Lives (1864), 195.

<sup>3</sup> There is a print of this memorial in Mr. George Worley's excellent monograph on the Church (Bell, 1911), 48. Travers outlived Hooker by thirty-four years, dying in 1635. See D.N.B. LVII, 163.

other than ecclesiastical purposes. Perhaps the strangest use to which it was put was as a place of conference for Committees of the House of Commons. At these meetings (which were held in the afternoon) such various matters were discussed as motions of grief and petitions; and Bills on the following subjects: to reform Promoters, against Bulls from Rome, concerning conveyances of land without covin, grants by corporations, vagabonds, outlaws, delays in judgments, actions on the case, the Reformation of Sheriffs, the Preservation of Woods, Weights and Measures, and the true folding and winding of wools.<sup>1</sup> Presumably these meetings were held in the choir, for the round part of the church seems to have been a place of public resort, like the nave of St. Paul's.

Turning now to the social life of the Inns, the Benchers of both Societies experienced much difficulty in securing prompt payment of Commons. There are constant references to members being in default and to expedients employed to enforce payment. By the practice of the Houses, members made their payments direct to the Steward, who was responsible for the supply of Commons, and where he failed to recover arrears, the Society was liable to make good to him the unpaid debt. One of the earliest expedients adopted at the Middle Temple was proclaiming the debtor at the Cupboard, and fining him if he did not thereafter promptly discharge the obligation. Such proclamations were made by the Steward, who no doubt found this an unpopular duty and preferred to rely on the House as guarantor. On February 7th, 1552, the Benchers, to oblige this officer to perform his duty, enacted that the Steward must use his office in proclaiming the arrears of Masters' Commons in hall at "*le cuppeborde*," under a penalty of 10s. for each default, and be charged with what had not been proclaimed according to the ancient order of the House.<sup>2</sup>

Ten years later, on May 21st, 1563, it was ordered for the better payment of Commons, that every three weeks, on Tuesday at supper, the Steward should bring his rolls to the Bench or, in their absence, to the Utter Barristers, that all who were then in default might be put out of Commons, have their chambers forfeited, and be ordered to pay 12*d.* to the use of the House for each default, unless they satisfied the arrears before the next account; and that if the Steward or his deputy failed

<sup>1</sup> Com. Journ. I, 83, 84, 85, 86, 88, 89, 94, 95, 97, 99, 102, 105, 106, 108, 120, 129.

<sup>2</sup> D. 11; M.T.R. 91.

to perform this duty, he should stand to the loss of all such debts ever after, as hung upon the rolls of the weeks not shown.<sup>1</sup> Again, on July 2nd, 1571, it was ordered that any member going out of Commons at the end of any Term without paying or agreeing for pensions, commons, and other debts to the Steward, should lose his chamber and not be received into Commons again (though meanwhile incurring their cost) until he had paid double.<sup>2</sup> Two years later, in May, 1573, offering the Steward a bill for Commons was prohibited, and all were ordered to pay ready money on pain of forfeiture; the Steward himself being made liable to a penalty of £10 if he received any bill.<sup>3</sup> Further, auditors were directed to examine his rolls weekly and present the names of those in arrear for a week to the Masters of the Bench or, out of Term time, to the Senior Master of the Utter Bar, so that the names might be published and expulsion decreed if the debts were not paid the same day.<sup>4</sup> On February 9th, 1576, this matter was again under consideration, and an order made that, on the following Sunday after dinner, the Treasurer should peruse the Steward's rolls of Commons, and if any gentleman was indebted for three weeks or above admit another to his chamber or, if the defaulter had no chamber, put him out of Commons while continuing his liability to pay for Commons until his debt was discharged.<sup>5</sup> In May, 1577, payment in advance was ordered and expulsion decreed against any member of the Inn taking his Commons or repast without payment first made;<sup>6</sup> while a month later it was resolved that each member should be bound with two sureties for the payment of Commons to the Treasurer.<sup>7</sup> The number and variety of these orders is sufficient proof that they did not achieve their object. Many others followed,<sup>8</sup> including one made on May 17th, 1588, dealing with the proclamation of defaulters which enacted —

“Everye gentleman shall pay his Comons imediately after he is proclaymed or els he or they to be out of Comons But whoe so ever shall endure the second proclamacon which shalbe

<sup>1</sup> D. 51.

<sup>2</sup> D. 96; M.T.R. 180; see also D. 133, 209; M.T.R. 227, 313.

<sup>3</sup> “Ullam billam pro Communiis”; D. 106 (May 1st).

<sup>4</sup> D. 106.

<sup>5</sup> D. 122.

<sup>6</sup> D. 124 (May 17th).

<sup>7</sup> D. 124 (June 21st).

<sup>8</sup> See D. 138, 143, 153, 211, 253, 267.

within three weekes after the first his or ther Comons beinge then unpaid that then everye suche gentleman not paying his Comons as aforesaid shall be expelled from the Societie never to be restored.”<sup>1</sup>

Finally, in February, 1600, the trouble still continued, and all former orders for the payment of Commons were ordered to be put in execution and further fines were enacted for defaulters.<sup>2</sup>

At the Inner Temple analogous means were adopted to enforce payment of Commons. Thus, in May, 1564, it was there enacted that the Steward should on Saturday at supper-time bring in his roll showing who had not paid their Commons for the past week, and if the defaulters did not discharge the debt within a time limited they were to lose their chambers in the House.<sup>3</sup> In November, 1567, the expedient was adopted of authorizing another member in the same chamber, by paying the debt (if 40s. or above), to have preferment over the defaulter of his room in that chamber, if he were three months in arrear ;<sup>4</sup> and in June, 1568, a like provision was enacted, the time limited being six weeks after warning.<sup>5</sup> This was apparently considered too drastic, for in the following October proclamation of defaulters in Hall at dinner-time in three several weeks was ordered, with forfeiture of chambers if the debt was not paid within three months from the last proclamation.<sup>6</sup> In January, 1574, the Butler was ordered to make three demands at the hearth in the Hall about dinner-time, on Thursday, Monday, and the following Thursday, and if these produced no response, the defaulter, after twenty days' grace, was for ever to lose the benefit of his admittance into any chamber. Further, to force the Steward to do his duty, in getting in debts for Commons (no doubt here also an unpopular one) he was deprived of his recourse to the House where they were not collected.<sup>7</sup> Another device (November 27th, 1575) was putting the defaulter out of

<sup>1</sup> D. 193.

<sup>2</sup> D. 303. The Temple Societies were not peculiar in this respect. At Gray's Inn, notwithstanding its great prosperity at this time, there was also a like "unconscionable reluctance of the members to pay their debts for Commons to the Steward": see Pension Bk. I, Intro. li.

<sup>3</sup> A.P. I, 154.

<sup>4</sup> *Ibid.* 162 (November 25th).

<sup>5</sup> *Ibid.* 165.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.* 178.



Commons, the senior Butler being instructed to write after his name in the Book of Commons *extra per mandatum*, and to do this without respect of any person as he should answer at his peril.<sup>1</sup> A form of pressure re-enacted in July, 1593.<sup>2</sup> The price of Commons rose in the Inner Temple during Elizabeth's long reign. In January, 1556, it had been fixed per week at 3s. 4d. in Term time and 2s. 10d. out of Term. By November, 1595, it had risen to 4s. per week, both in and out of Term.<sup>3</sup>

The orders made by Queen Elizabeth and her Council in 1574 included one requiring the gentlemen of the Inns of Court to observe the directions touching apparel, shortly to be set forth by proclamation for the apparel of all estates generally.<sup>4</sup> Ten years later the Masters of the Bench of the Middle Temple agreed upon and issued the following orders on this subject for the members of their Society :

"Imprimis that noe great ruffes be worne · secondly that no white colour in dublett or hose be worne ; thirdly that noe facinge of velvett be worne in gownes but by such as are of the Bench ; fowerthly that no gentillmen shall walk the streets in their cloaks but in their gowns ; fyfthly that noe hatt or longe curled haire be worne ; syxthly that noe gownes shalbe worne but such as be of a sad colour." <sup>5</sup>

Offenders against these orders were to be fined and put out of Commons at the discretion of the Bench. Again, in May, 1588, it was ordered that no gentleman shall walk in the Town in his cloak. For a member who persisted in disobeying this order the consequences were drastic : "Yf any beinge admonished the second tyme doth not reforme him selfe he shalbe dismissed from the fellowship." <sup>6</sup> In November, 1595, a further order was made, forbidding the wearing of boots and cloaks in the Hall at meal-time, as follows :

"Anye gentleman of this Societic that shall at anye tyme heereafter come into the Hall or Buttery to brekfast dynner

<sup>1</sup> A.P. I, 182.

<sup>2</sup> A.P. II, 16.

<sup>3</sup> A.P. I, 125 ; A.P. II, 22.

<sup>4</sup> D. 112. This proclamation, however, failed of effect, and an attempt to enforce its provisions by Act of Parliament in 1575 also failed, for although the Bill against luxury in apparel passed the Lords it was lost in the Commons : see Parl. Hist. I, 733 ; also Camden's Annals (Edit. 1615), 250.

<sup>5</sup> D. 168.

<sup>6</sup> D. 193.

or supper in Bootes or Clokes shall *ipso facto* be owt of Commons untill hee have payde to the Treasurer of the House 10/- And to paye Commons during all suche tyme as they shall remayne owt of Commons.”<sup>1</sup>

In May, 1601, Master William Young was expelled for wearing boots in the Middle Temple Hall, but restored on payment of a fine of 20s., which he was required to bring up to the Bench table at dinner-time.<sup>2</sup>

At the Inner Temple, about the same time, analogous prohibitions were being enacted. Thus, on June 16th, 1594, it was there ordered :

“ If any fellow of this house being in Commons or lying in the house shall weare either hat or cloake in the Temple Church, hall, buttery, kitchin, or at the buttery bar, or at the dresser, or in the garden, he shall forfeite for every time that he shall so offend vi<sup>s</sup> viii<sup>l</sup> ” ;<sup>3</sup> and on December 20th, 1595, it was further ordered : “ No fellowe of this House shall come into the Hall with anye weapons except his dagger and his knife uppon payne of forfeitinge £5.”<sup>4</sup>

The objection to boots is obscure. In halls strewn with rushes, as the Societies' halls at this time were, they seem the natural form of footwear : as they are mentioned with cloaks and spurs probably the prohibition referred to long riding boots. From later entries it appears that the objection to hats in church and Hall was insisted on, not because it was deemed disrespectful to have the head covered, but because members of the Inns of Court were expected to wear caps as part of their academic costume. The records afford no information as to the shape of these caps, but from the Brerewood MS. it appears they were round caps. In the Universities such caps seem to have been

<sup>1</sup> D. 253.

<sup>2</sup> D. 305 : cf. Gray's Inn, “ Noe gentleman of this Society shall come into the Hall to any meale with their hatts, neither with boots or spurres but with their cappes decently and orderly accordinge to the auneyent orders of this House upon paine for every offence 3/4 and for the third offence expulcon ” : February 11th, 1600 : Pension Bk. I, 147, 148. See also Black Books of Lincoln's Inn, II, 132 : boots and “ rappers ” forbidden in the House, City, or Suburbs and gowns always to be worn in the House.

<sup>3</sup> A.P. II, 18.

<sup>4</sup> *Ibid.* 23.

especially appropriated to the Faculties of Law and Medicine,<sup>1</sup> which may account for their adoption in these Colleges of Law.

The Benchers still objected, like the Templars of old, to the wearing of long hair, and visited the offender in such case with exclusion from Commons and a fine.<sup>2</sup> This and some other doings of the younger members of the Inner House, to which the Judges had apparently taken exception, were made the subject of a further order of parliament there on February 8th, 1600 :

“Whereas divers and many gentlemen fellowes of this howse and socyetye are verye negligent and slacke in cominge to the churche to heare devyne service and doe goe abroad into the Cittye of London and other places in and neare the Suburbs of the same Cittye in cloakes and hattts and some booted and spurred and weaponed and some unweaponed and otherwise unseemelye attyred and arayed contrarye to the auntient orders of this house and government of the same whereby the said gentlemen fellowes of this house and socyetye are muche imboldened to and the rather doe repaire unto haunte and frequent many unfitt and dangerous places for them, yea oftentymes to some of theire utter overthrowe and undoynge, and also doe weare longe heare verye undecente and unseemely for gentlemen of their profession, for Remedye and Reformacon whereof and for their good in many respectes It is now at this present parliament by advise of the Lordes the Judges enacted ordered and decreede that all the gentlemen fellowes of this Socyetye beinge in Commons or lodginge within the howse shall ordynarylie come and repaire unto the churche within the same howse and there in the same church shall heare devyne service and Sermons at the usuall dayes and tymes when suche devyne servyce and Sermons are there exercised unlesse they be hindered by sicknes or have some other reasonable cause to the contrarye And moreover shall once at the least in every yeare receive the Holie Communion And further that noe gentleman which nowe is or at anye tyme hereafter shalbe fellowe of this howse and Socyetye shall weare any longe or unseemelye heare or at

<sup>1</sup> Rashdall's Universities of Europe, II, 642.

<sup>2</sup> A.P. II, 36, 46, 47.

any tyme hereafter shall goe or travell into the said Cittye or into any the places aforesaid in any cloake or hatt booted spurred weaponed or unweaponed or otherwise than in his gowne unless it be when he shall goe or travell out of Towne And yt ys further likewise enacted and ordered that no gentleman fellowe of this howse and Socyetye shall at any tyme hereafter goe or passe to or fro within the howse, Gardens and Walkes thereof but onely in his gowne.”<sup>1</sup>

Notwithstanding this order Master George Hunter in 1602 proved a transgressor, and was put out of Commons “for the excessive longe haire which he woare on his heade.” He was readmitted, however, and pardoned, a fine of 40s. having reformed his hair to the good liking of all the Bench.<sup>2</sup>

The expenses connected with the celebration of Christmas during this reign seem to have been kept at the Middle Temple within reasonable limits. With the year 1559 the former annual appointment of Grand Christmas officers by parliament ceases, and thereafter, for many years, an entry usually appears in the November minutes stating that Christmas shall not be solemnly kept, but providing a cartload of coals and an allowance of 40s. for minstrels for the benefit of those remaining in residence at that time. It is evident, therefore, that the old Christmas celebration with its hierarchy of officers appointed by parliament is a thing of the past, and that if Christmas may yet on occasions be solemnly observed it will not be with the ancient grand ceremonial.<sup>3</sup> In February, 1561, it was ordered that when Christmas was solemnly kept one of the fellowship should be chosen Steward, his bearing and substance being considered, but that the old custom by which the Autumn Reader was chosen Steward should not be adhered to, the Reader paying instead a reasonable fine.<sup>4</sup> In fact, Christmas was not again ordered to be solemnly kept at the Middle Temple till 1596,<sup>5</sup> and on the few occasions at the close of Elizabeth’s reign when Christmas was again so kept (1596–1601), there is no record of any appointment of a Steward or any other Christmas officer by the Benchers in parliament.

<sup>1</sup> A.P. II, 39, 40.

<sup>2</sup> *Ibid.* 46, 47.

<sup>3</sup> For a time a Steward for Christmas and sometimes also a Marshal was appointed, but this ceased in 1576.

<sup>4</sup> D. 42.

<sup>5</sup> D. 264.



This does not mean, however, that no Christmas festivities were held when officers for that occasion were not appointed by parliament, but that any celebration which took place was of a private character and lacked the old ceremonial observances. When Commons were continued during the Christmas vacation, those remaining in the House were free to indulge in any reasonable festivities they chose, and unless some occasion arose for interference by the Bench no notice is taken of their doings in the Records of the Society. Dicing and card-playing were, however, expressly prohibited, the former at Christmas by an order of February 9th, 1581, and both at any time on November 25th, 1584, as follows: "None shall play at dice nor cardes within this House neyther in the Hall nor in the Chambers at any tyme of the yeare uppon payne to be expulsed the House." <sup>1</sup>

The Inner Temple Society seem to have been more faithful to the old traditions in the matter of Grand Christmas. The great celebration of 1561 has been already noticed, and appointments to Grand Christmas offices continued to be made till 1567, after which date the Records of the Inn are silent as to these offices until the year 1579, when such appointments were renewed and thereafter regularly recorded except when sickness stopped all celebrations. These appointments were, however, to three offices only—Steward, Marshal, and Butler, and often the persons nominated are fined for not appearing.<sup>2</sup> In 1592 and 1593 all festivities were stopped in both Inns by a prolonged visitation of the Plague, which is thus noticed in the Middle Temple Minutes: "This yeare Christmas was no vacacion for that no Commons was kepte in the howse from the viith daye of August 1592 to the xxth day of January following by reson of the sicknes."<sup>3</sup> An attempt to hold the Lent Reading failed, for one of the members died in the Inn.<sup>4</sup> The Summer Reading also was abandoned in both Houses,<sup>5</sup> and in November, 1593, the parliaments of both Inns met at St. Albans, neither Society returning to the Temple till late in the following January.<sup>6</sup> This was the visitation which brought

<sup>1</sup> D. 150, 171. The extract about dice-playing in the Temple, quoted from Stow's Survey in Master Worsley's Bk. (Ingpen), p. 39, occurs in Strype's edit. of Stow pub. 1720, Vol. I, 123, and is not to be found in the original Edition. So far as concerns the reign of Elizabeth it is evidently erroneous.

<sup>2</sup> See *e.g.* A.P. I, 163, 197, 205, 214.

<sup>3</sup> D. 226.

<sup>4</sup> D. 228.

<sup>5</sup> A.P. II, 16; D. 231.

<sup>6</sup> A.P. II, 16, 17; D. 232.

to a premature conclusion the Reading of Edward Coke on the Statute of Uses at the Inner Temple, and prevented him delivering two of the discourses he had prepared. It did not, however, deprive him of the guard of honour consisting of nine Benchers, forty Barristers, and other admiring members of the House, which accompanied him as escort during his flight to his country house in Essex.<sup>1</sup>

When Christmas was kept privately at the Inner Temple an allowance of £4 was made by the Inn to those in Commons towards their expenses.<sup>2</sup> There, also during this reign, gambling was strictly forbidden; the Benchers enacting on January 20th, 1560, as follows:

“It is ordered that at no tyme hereafter ther shalbe any playing at dyce or at cards in the hall either in tyme of a private Christmas, solempne Christmas, or at any tyme in any Chamber or other place in the house upon payne of expulsion from the house for ever without any re-admission And that every person so playing or suffering any to play shall forfait 40/- for every such defaulte.”<sup>3</sup>

As already mentioned, the festivities at the Inns of Court sometimes took the form of plays or interludes acted by members of the House. Performed in the Halls of the Societies, and being in the nature of domestic entertainments, little is now known about these plays, as few of them were ever printed. Some, however, were subsequently published, and two which have thus come down to modern times were produced in the early years of Elizabeth's reign in the Hall of the Inner Temple. The first of these was shown on Twelfth Night (January 6th), probably during the Grand Christmas of 1561, under the title of “The Tragedie of Gorboduc.”<sup>4</sup> It consisted of five acts and was composed by two students of the House, Thomas Norton and Thomas Sackville; both of whom had joined the Inn in 1555. The first three acts are generally attributed to Norton and the last two, which have the greater merit, to Sackville. The plot is founded on a fabulous story contained in Geoffrey of Monmouth's astonishing History. Gorboduc, King of Britain,

<sup>1</sup> Foss, VI, 110.

<sup>2</sup> A.P. I, 136, 141, 167, 194.

<sup>3</sup> *Ibid.* 141.

<sup>4</sup> The year is not certainly ascertained. But this seems the more probable date. Mr. Inderwick says 1560 or 1561; I.T.R. I, Intro. lxx

resolves to divide his Realm during his life between his two sons, Ferrex and Porrex, and does so with disastrous results, for dissensions ensue between them, and the younger having killed the elder, their mother, Queen Videna, to avenge his death, kills the slayer. Enraged by this unnatural crime, the people rebel, and both King and Queen come to a violent end. The throne left vacant and without an heir civil war ensues, and ruin and desolation follow in its wake.

This play, which is said to be the first English tragedy, won high praise from no less a person than that "president of nobleness and chivalry," Sir Philip Sidney. "Gorboduc," he says, "is full of stately speeches and well-sounding phrases, climbing to the height of Seneca his style and as full of notable morality; which it doth delightfully teach and thereby obtain the very end of poetry."<sup>1</sup> The fame of the piece reached Elizabeth, and the gentlemen of the Inner Temple had the honour of acting it a second time "before the Queen's most excellent Majestie in her highnes Court of Whitehall."<sup>2</sup> Apart from its historical interest in the development of the English drama, "Gorboduc," published in 1565 under the altered title of "Ferrex and Porrex," owes its fame to the contributions of Sackville. But both the composers were remarkable men.<sup>3</sup> Thomas Norton was called to the Bar and attained considerable success in his profession. He was an ardent Puritan, and as keenly interested in theology as in law. He married a daughter of Archbishop Cranmer, collaborated in an English rendering of the Psalms, and published in 1561 an English translation of Calvin's Institutes of the Christian Religion. He also sat in several of Elizabeth's Parliaments, being latterly member for the City of London. An active enemy of Popery, his participation in the proceedings against Romanists earned him amongst them the unpleasantly suggestive name of "Rackmaster General." His excess of zeal did not, however, recommend him to the Queen's advisers, whom political exigencies compelled to follow a temporizing course, and though appointed first Remembrancer for the City, he never held judicial office. He died in 1584. Thomas Sackville, like so many other Templars of the time, joined the Inn without any intention (apparently)

<sup>1</sup> See Dodsley's *Old Plays* (Edit. 1825), I, 107-173.

<sup>2</sup> January 18th, 1561/2.

<sup>3</sup> Norton; see D.N.B. XLI, 221-225; and Sackville, *ibid.* L, 96-100. The statement that the tragedy was acted before the Queen in the hall of the Inner Temple (p. 224) is, however, incorrect: see also I.T.R. I, Intro. lxx.

of practising at the Bar. He early passed into the Queen's service, where he prospered amazingly. Created Lord Buckhurst in 1567, he was successively engaged in many important State employments. Eventually he became Lord Treasurer, Lord High Steward, and Chancellor of Oxford University. He continued to enjoy the royal favour under King James, who made him Earl of Dorset (1604). He accumulated great wealth in the service of the Crown, and Knowle, at Sevenoaks in Kent, which he built in his closing years, remains to witness to his princely magnificence.

The other play produced by gentlemen of the Inner Temple in their hall during the reign of Elizabeth, and which was afterwards published, was "*Tancred and Gismund*."<sup>1</sup> Adapted from the story of Boccaccio, it also was a Tragedy in five acts and the joint production of five members of the Society, one of whom was Christopher Hatton, afterwards Lord Chancellor. The fourth act is generally attributed to him. It was first acted in 1568, the Queen herself, if tradition may be trusted, being present to honour the occasion. Robert Wilmot, one of the composers (who later abandoned law for the Church), published a version of this Tragedy in 1592,<sup>2</sup> which he described as "newly revived and polished according to the decorum of these daies," and dedicated as follows :

"To the worshipful and learned Society the gentlemen students of the Inner Temple with the rest of his good friends the gentlemen of the Middle Temple and to all other courteous Readers R. W. wisheth increase of health worship and learning with the immortal glory of the graces adorning the same."<sup>3</sup>

Each act of these early Tragedies was preceded by a dumb show and concluded with a chorus.<sup>4</sup>

In the Middle Temple the Lord of Misrule was still a popular institution, at least with the younger members of the House. The Benchers, however, viewed the matter differently, and from time to time exhortations against indulgence in this form of Christmas joviality were delivered in Hall from the Cupboard.<sup>5</sup>

<sup>1</sup> Dodsley's *Old Plays*, II, 158-233 ; I.T.R. I, Intro. lxxii.

<sup>2</sup> Being then Rector of Horndon-on-the-Hill in Essex.

<sup>3</sup> Dodsley, II, 165.

<sup>4</sup> Dramatic shows were also much in favour at Gray's Inn, and gentlemen of that Society gave performances likewise before the Queen at Whitehall and Greenwich.

<sup>5</sup> D. 223.



In the second year of Queen Elizabeth the gentlemen of the Inn were forbidden to set up any "dominus de Mysrule," except at a Grand Christmas, without the assent of the Masters of the Bench.<sup>1</sup> This order was repeated on February 11th, 1568, and a penalty of 40s. imposed for any breach of it.<sup>2</sup> Sixteen years later, on November 25th, 1584, it was further enacted as follows :

"And also that no outryes in the night be made nor chambers broken open by any gentleman of this House as by Lorde of Candlemas night or suche lyke mysorder (*sic*) uppon payne of putting out of Comons for such offence."<sup>3</sup>

In 1590, however, divers members of the House set this ordinance at defiance by raising outcries and forcibly breaking open chambers in the night, and levying money from the occupiers as the Lord of Misrule's rent. One of these offenders, Lower by name, also abused "with reprochfull and contemptuous words," a Master of the Bench who had ventured to remonstrate with them. Lower was accordingly expelled, and seven other transgressors were fined £20 and put out of Commons till the money was paid, the Benchers at the same time resolving that any repetition of the offence should involve expulsion *ipso facto*.<sup>4</sup> Despite this warning some of the delinquents, arrayed in disguised attire with divers townsmen in their company, repeated the offence on Candlemas night, 1591, breaking open chamber doors in a riotous manner and abusing many gentlemen of the House.<sup>5</sup> For this misconduct sentence of expulsion was passed on six members, while certain others were put out of Commons during the pleasure of the Bench. Further, a bill was put into the Star Chamber against the townsmen for unlawful assembly, though what became of it does not appear.<sup>6</sup> These disciplinary measures, though their rigour was subsequently mitigated,<sup>7</sup> seem to have proved effectual as no more is heard in this reign of any Lord of Misrule in the Middle Temple.

The Benchers of the Inner Temple seem at this time to have

<sup>1</sup> D. 33 (February 7th, 1560).

<sup>2</sup> D. 85.

<sup>3</sup> D. 171.

<sup>4</sup> D. 215.

<sup>5</sup> D. 223.

<sup>6</sup> D. 225.

<sup>7</sup> D. 229. One of those expelled, Wm. Fleetwood, was restored into the Fellowship and to his antiquity and chamber at the earnest request of his father, Serjeant Fleetwood, "of longe continuance in this Fellowship and a well willer to the house": *ibid*.

been more indulgent in the view they took of these Candlemas doings, and were content to limit the rent a Lord of Misrule might levy without interdicting his proceedings altogether, for on January 27th, 1599, they made the following order in regard to a similar trouble in their Inn :

“Ordered that the gentlemen who shall hereafter keep private Commons within the house at Christmas shall not break open any chamber doors within this house in the night wherein no persone dothe then lye neyther shall take in the nyght comyng to any chamber in this house wherein any persone shall then lye of anie persone above ij<sup>s</sup> vj<sup>d</sup>.” <sup>1</sup>

Two of the members of the Middle Temple Society who had played a part in the Candlemas disturbance above mentioned, John Davies and Richard Martin, were subsequently concerned in another episode which brought down upon one of them the extreme displeasure of the Bench. As they both rose later to positions of importance some account of this incident is inserted here. Davies, a Wiltshire man, had joined the Society from Queen's College, Oxford, and New Inn, on February 10th, 1587.<sup>2</sup> Notwithstanding his Candlemas activities he seems to have made good progress with his studies, and was called to the Bar on July 4th, 1595, with the assent of all the Masters of the Bench.<sup>3</sup> He appears to have been at one time on terms of close friendship with Richard Martin, for in 1596 he prefixed to a poem on dancing, which he published under the title of “Orchestra,” some dedicatory verses addressed to Martin, described therein as “Mine owne selves better halfe my deerest friend.” <sup>4</sup>

Richard Martin, a Devonian, had likewise come to the Temple from Oxford (Pembroke College) and New Inn, joining the Society on November 7th, 1587.<sup>5</sup> Reputed a wit, he had indulged his talents at the expense of other members of the House, including Davies, for Manningham the diarist, admitted to the Inn a year later, mentions an anagram of that gentleman's name which Martin made, reducing it to Judas.<sup>6</sup> Whatever the cause, by February, 1597, Davies was obsessed by a grievance.

<sup>1</sup> A.P. II, 35.

<sup>2</sup> D. 192.

<sup>3</sup> D. 248.

<sup>4</sup> See these verses, Notes and Queries, Series I, Vol. 3, p. 83.

<sup>5</sup> D. 190.

<sup>6</sup> Camden Society, XCIX, 18.

against his quondam friend, which led him to take the law into his own hands and proceed to the infliction of corporal chastisement. An entry in Latin on a Minute of parliament dated February 9th, 1597, described the sequel, and translated reads as follows: While the Masters of the Bench were quietly dining in public in the Hall John Davies, one of the Masters of the Bar, in cap and gown and girt with a dagger, accompanied by his servant and a stranger (both armed with swords), came into the Hall. The servant and the stranger remained at the lower end of the Hall, while Davies walked up to the fireplace and then proceeded to the lower part of the second table for the Masters of the Bar, where Richard Martin was quietly dining. Taking from under his gown a stick which is called a "Bastianado," he struck Martin on the head with it three or four times till it broke, and then running to the foot of the Hall snatched the sword out of his servant's hand, shook it over his head at Martin, and rushing down the water steps leapt into a boat.<sup>1</sup>

After this exploit it is not surprising that the offender, by the unanimous decision of the Bench, was stripped of his degree of Utter Barrister with all privileges attached thereto, and expelled from the Society—never to be restored.<sup>2</sup> In fact, however, Davies was readmitted to membership of the Inn, on his own humble petition some years later; but not without a public ceremony in the Hall at which he made his submission at the Cupboard before dinner on All Saints' Day, 1601, in the presence of Chief Justice Popham, Chief Baron Periam, Mr. Justice Fenner, Mr. Baron Savile, Serjeants Thomas Harris and David Williams, and many others, and formally requested and obtained pardon from his victim.<sup>3</sup>

The following further details regarding these protagonists will be of interest. Davies, during the period of his expulsion, was not idle. Returning to Oxford, he published, in 1599, a poem of remarkable merit on the immortality of the soul called "Nosce Teipsum,"<sup>4</sup> which attracted the admiring notice of no

<sup>1</sup> D. 274; M.T.R. 379 (English).

<sup>2</sup> The record of the sentence pronounced on Davies is as follows: "Judicio et censura omnium magistrorum de Banco idem Joannes Davies non solum omni Barræ dignitate et omnibus aliis privilegiis ad id munus spectantibus et ab omni dicendi et consulendi auctoritate in jurepotestate ubicunque deprivatur, verum etiam ab hoc hospitio et societate penitus excluditur et amovetur nunquam in posterum restituendus": D. fo. 274. The English version in M.T.R. 380, is merely "expelled never to return."

<sup>3</sup> D. 308: where the petition of Davies to be restored is set out in English.

<sup>4</sup> "That excellent philosophical divine poem": *Athenæ Oxoniensis* (Bliss), II, 401.

less a person than King James VI of Scotland, soon to ascend the English throne.<sup>1</sup>

In the year of his restoration at the Middle Temple, Davies was returned to Parliament as member for Corfe Castle, and in 1606 by royal favour he was created a Serjeant-at-Law. In 1607 King James appointed him Solicitor and Attorney-General for Ireland and conferred upon him the honour of knighthood. In 1612 he was made King's Serjeant and Speaker of the Irish Parliament. In 1614 he again secured a seat in the English House of Commons, this time for Newcastle-under-Lyme, and published in London, "A Discovery of the True Causes why Ireland was never entirely subdued and brought under Obedience to the Crown of England until the Beginning of his Majesty's happy Reign." This treatise is an able historical review of the relations between the two countries, from Strongbow's invasion till the time at which it was written. In 1615 Davies published in Dublin in law French a volume of Irish Reports, to which he prefixed in English a masterly Preface Dedicatory on the Common Law addressed to Lord Chancellor Ellesmere. In 1616 he left Ireland and resumed practice at the English Bar. He next appears riding circuit as a Commissioner of Assize. In 1620 he was again returned as member for Newcastle-under-Lyme. Six years later he was nominated Chief Justice of the King's Bench, but never presided in that Court, for he died suddenly at his house in the Strand before taking office.<sup>2</sup> Lord Stowell has paid Sir John Davies a handsome, but well-deserved, tribute as "a man of various and extraordinary talents, a poet, a lawyer, and a statesman and highly distinguished in every one of those characters."<sup>3</sup>

Richard Martin also entered Parliament. In 1601 he sat for Barnstaple. In May, 1603, he met King James on his first approach to London, and delivered before him an oration as spokesman of the Sheriffs of London and Middlesex, in which he greeted the new Monarch as "the bright Star of the North born for our good out of the ashes of this Phœnix" (Elizabeth), and with courtly flattery predicted that under him England would partake of that felicity which divine Plato did only apprehend but never see, government by a Philosopher King.<sup>4</sup>

<sup>1</sup> Serjeant Woolrych gives an account of Sir John Davies in his *Lives of Eminent Serjeants*, and quotes extracts from "Nosce Teipsum"; see Vol. I, 198.

<sup>2</sup> See, generally, Woolrych, I, 186; D.N.B. XIV, 140.

<sup>3</sup> *Archæologia*, XXI, 107.

<sup>4</sup> See this curious oration in Nichol's *Progresses of James I*, Vol. I, 128. Also as first printed M.T. Library Tracts, No. 48.



From 1604 to 1611 Martin represented Christchurch in the House of Commons. Little seems to be known about his practice as a lawyer, but that his reputation for learning and wit gave him some position in the Inn is evident from his being chosen (as will appear hereafter) with Sir Edward Phelips, Master of the Rolls, to manage the Masque presented before King James in 1612 by the two Societies of the Middle Temple and Lincoln's Inn.<sup>1</sup> Reader for Lent in 1615, he was honoured by the attendance at his Feast of the French, Venetian, and Savoyard Ambassadors, as well as Sir Noel Caron, Ambassador to the "States" (Netherlands), and the Earl of Worcester, Lord Privy Seal.<sup>2</sup> In 1618 he was appointed Recorder of London, but under circumstances which turned this coveted fruit into apples of Sodom; for owing it to the good offices of Sir Lionel Cranfield on terms that he should be thankful, he was confronted by a claim for £1500, which so weighed upon his spirits that he took to his bed and never rose again. Such, at least, is the account left of his end by Sir James Whitelocke, who aspired, but in vain, to succeed him in his office.<sup>3</sup> He was buried in the Temple Church, where his monument, a typical Jacobean structure, still exists, but has been consigned to obscurity in the triforium of the Round. Thus both these votaries of the Lord of Misrule attained some degree of distinction in the profession of the Law.

<sup>1</sup> See *post*, p. 271.

<sup>2</sup> C. 93. Nichol's Progresses, III, 131.

<sup>3</sup> Liber Famelicus, Camden Society, LXX, 63.

## CHAPTER V

### THE REIGN OF QUEEN ELIZABETH—*continued*

IN both Societies the Treasurer's office was still in theory an annual one. But in practice the Middle Temple Benchers paid little heed to this rule during Elizabeth's reign; the office being held in many instances by re-election for a much longer period. Thus, Edmund Plowden was Treasurer for six years (1561-66), and Thomas Andrewes, who succeeded him, for three. The next Treasurer, Matthew Smith, held the office four years, and his successor, Edmund Ameredeth, six years; while Sir John Popham (later Chief Justice) and Miles Sandys (brother of the Archbishop of York) each served for eight years. Sandys was succeeded by James Morris (Attorney of the Wards). This Treasurer died in the office six months after appointment, and when Matthew Dale was chosen in February, 1596, to fill the vacancy, the opportunity was taken to introduce a more regular system, the Benchers enacting that no Treasurer should remain in office for a longer period than one year.<sup>1</sup> Thereafter, this rule, with only three exceptions, was observed until the Civil War broke up the Collegiate life of the Inn. The exceptions occurred in the cases of John Cavell, nominated Treasurer May 18th, 1604; <sup>2</sup> Richard Daston, appointed April 15th, 1608; <sup>3</sup> and William Whitaker, October 16th, 1635; <sup>4</sup> each of whom held the office a second year.

At the Inner Temple, on the other hand, more attention was paid at this time to the rule that the office was an annual one; the longest departures from it being re-elections for three years in the cases of John Fuller (1559-62),<sup>5</sup> George Bromley (1567-70),<sup>6</sup> and Thomas Bromley, Solicitor-General, and later Lord Chancellor (1573-76).<sup>7</sup> In a number of instances the office was held for two years, notable examples of this being Dr. Julius

<sup>1</sup> "Quilibet qui imposterum erit summus Thesaurarius hujus hospicii Medii Templi non remanebit in officio suo Thesaurarii diutius quam pro tempore unius anni": D. 264.

<sup>2</sup> D. 327, 343.

<sup>3</sup> D. 366, 401.

<sup>4</sup> B. 155, 176, 179.

<sup>5</sup> A.P. I, 135, 140, 144.

<sup>6</sup> *Ibid.* 162, 165, 169.

<sup>7</sup> *Ibid.* 176, 180, 182.

Cæsar and Edward Coke, then Attorney-General.<sup>1</sup> The contrast between the practice of the Inns during Elizabeth's reign is best shown in the number of members who served in the office in the two Houses. At the Inner Temple for the whole reign there were thirty different Treasurers, at the Middle Temple fourteen only.

In recording the later elections to this office at the Middle Temple words are sometimes added that the person elected shall have a voice in parliament; which seems to imply that originally the Treasurer, as presiding officer of the parliaments, occupied a neutral position, and was precluded from voting on a contested matter. The change in practice, whatever its object, first occurred when Sir John Popham, S.G., was chosen Treasurer on November 25th, 1580. The record is in Latin, and concludes, "Et vox ei conceditur simulatque omnibus aliis hujus domus lectoribus qui in illud officium morabuntur imposterum in tam ampli modo ut si thesaurarii non essent."<sup>2</sup>

The Treasurer enjoyed a dispensing power in the matter of admission fines, which was exercised somewhat freely. Entries to the following effect are common: pardoned a fine because it seemed good to the Treasurer;<sup>3</sup> gives no fine because the Treasurer so wished;<sup>4</sup> fine only 20s., or no fine, because he is the Treasurer's nephew (*nepos*) or kinsman (*consanguineus*).<sup>5</sup> In one case the translated entry reads—No fine on account of the great friendship (*magnam amicitiam*) between his father and this Society, and especially the Treasurer.<sup>6</sup> The Reader also, where he had the privilege of admitting new members, could do so without fine. By a parliament held February 11th, 1582, it was enacted that the sons of Benchers thereafter admitted should pay no fine at all for admittance to the House or chambers;<sup>7</sup> an immunity which sometimes enjoyed before was subsequently regularly taken advantage of. A like privilege was conceded to sons of Benchers in the Inner Temple.<sup>8</sup>

<sup>1</sup> A.P. II, 18, 21, 22, 26.

<sup>2</sup> D. 142; see also M.T.R. 239. Cf. the voice given to Mr. Jas. Morris on his election as Treasurer (June 25th, 1596). His two predecessors had been Miles Sandys and Sir John Popham: "Et ulterius ordinat. est quod Mr Morrice habebit et gaudebit in parlamento suffragium et vocem sicut duo ultimi predecessores sui in officio predicto habuerunt": D. 260.

<sup>3</sup> D. 144; M.T.R. 241.

<sup>4</sup> D. 146; M.T.R. 243.

<sup>5</sup> D. 161, 215, 222, 249, 281.

<sup>6</sup> D. 257.

<sup>7</sup> D. 157. The admittance entries of sons of Benchers now generally conclude: "et dat pro fine nihil quia Pater ejus est unus magistrorum de Banco hujus hospicii": see D. 320.

<sup>8</sup> A.P. II, 1, 2, 11, 18.

Meanwhile, the Under Treasurer of the Middle Temple, at first elected annually, was becoming a permanent official. The following appointments to the office had been made since the beginning of the reign: Robert Smythes (November, 1560), William Bavande (June, 1561), Richard Wrench (May, 1567), Thomas Pagett (December, 1570), George Grenville (June, 1576), Philip Cole (May, 1583).<sup>1</sup> The next under Treasurer was appointed in June, 1591. This was Richard Baldwin, who had served as a butler of the House and was specially admitted a member (*pro bono et fidei servitio suo*) prior to his election as Under Treasurer.<sup>2</sup> He held the office for the long period of twenty-eight years, and the writer of Master Worsley's Book observes that from his election the sub-Treasurer became a fixed officer.<sup>3</sup>

In the time of Elizabeth the parliaments of the Middle Temple were usually held in the months of November, February, May, and June or July. Sometimes there were only four in the year, sometimes five, and occasionally six. The most usual number was five, two being generally held in November. At the Inner Temple parliaments were held more frequently, usually nine or ten in the year, and sometimes more. Harmonious relations, on the whole, prevailed between the Benchers, as the ruling authority, and the other members of the Inns, there being no evidence as yet of any such organized attempts to challenge their right of control as created serious friction in later times.

During this reign a change of considerable importance took place in the system of government which had hitherto prevailed in the Inner House. This was the elimination of the executive committee of the Bench known as Governors. Without any formal resolution abolishing the office, it seems to have been allowed to fall into abeyance; the last appointments to it being made on October 27th, 1566, when Richard Onslow, Robert Chydley, Anthony Stapulton, and Robert Kelewaye were nominated Governors of the Inn.<sup>4</sup>

The admittance entries still contain no information as to the age of members at the date of joining the Societies. Where, however, the date of birth is otherwise ascertainable, it is possible

<sup>1</sup> D. 32, 39, 77, 93, 120, 159.

<sup>2</sup> D. 218. The Minutes of parliament and admission entries were beautifully kept during his period of office, the writing being particularly regular and clear.

<sup>3</sup> Ingpen's Edit. 177.

<sup>4</sup> A.P. I, 159. Onslow was Speaker of the House of Commons.



to supply the omission. Thus, Sir Laurence Hyde and his brother, Nicholas Hyde (afterwards Chief Justice), each joined the Middle Temple at the age of eighteen, Sir James Whitelocke (of whom more hereafter) at twenty-two; Sir John Davies and his protagonist, Richard Martin, at eighteen and seventeen respectively; John Pym also at eighteen; Sir John Doderidge (later a Justice of the King's Bench) at the same age; and Sir Henry Montagu (also Chief Justice) at twenty-two. In one case, where Robert Tanfield was admitted to his late father's chamber when he was apparently too young to be in residence, the record states that he shall hold it without any forfeiture for not being in Commons until he has completed his nineteenth year.<sup>1</sup> In a few cases members of the Inn entered their sons' names while they were still children, but such cases were abnormal and need not be taken into consideration. Probably eighteen to nineteen was the usual age of admittance to the Middle Temple at this time, though applicants who had been studying at the Universities sometimes joined at a more advanced age.

The name of John Pym has been mentioned above. Famous as a politician and patriot, he seems to have joined the Inn, like many other young men of fortune and position, without any intention of qualifying himself to practise in the Courts. He was never called to the Bar, and except in connection with the admission of his son (October 20th, 1629) his name, subsequent to his own admission entry (April 23rd, 1602), only occurs in the Books of the Society when he was fined as an absent vacationer for failing to attend the Readings. There are three such entries, the last being dated April 19th, 1605.<sup>2</sup>

Mention of another name, illustrious in England's story, must not be omitted here. Sir Walter Raleigh joined the Middle Temple Society from Lyon's Inn on February 27th, 1574.<sup>3</sup> It is clear, however, from what he himself subsequently stated during his trial at Winchester, that Raleigh also did not prosecute

<sup>1</sup> D. 294: "quousque ætatis suae decimum nonum complevit" (February 8th, 1599).

<sup>2</sup> D. 312; see also 329, 331, 334.

<sup>3</sup> The record is "Walterus Rawley nuper de Lyons Inne generosus filius . . . Walteri Rawley de Budlengo in Com. Devon Arm. Admissus est in Societatem Medii Templi London generaliter et dat pro fine xx<sup>s</sup> et obligatur unacum": D. 115. Where the vacant space occurs the words "et heres" would usually appear. It is surprising that Edwards, in his life of Raleigh, alleges, "For the statement that Raleigh on leaving Oxford entered himself as a student of the Middle Temple there is not an atom of evidence": Edit, 1868, I, 25.

the study of Law in the Temple.<sup>1</sup> There is no record of his being admitted to a chamber in the House, and he was not called to the Bar. It is probable, however, that he resided in the Inn and shared for some time in its Collegiate life, for beneath the verses which he contributed to the first edition of George Gascoigne's satire of "The Steele Glasse," in commendation of that poem, and which were published about a year after Raleigh's admittance to the Society, he described himself as "Walter Rawely of the Middle Temple."<sup>2</sup>

If the members of the Middle Temple are proud to number Raleigh among the fellows of their House, another renowned Elizabethan, Sir Richard Grenville, is claimed by the Inner Temple. He is believed to have joined the Society on March 10th, 1559.<sup>3</sup> Like his cousin Raleigh, his interests did not lie in law, and he also was never called to the Bar. In early manhood he is reputed to have served for a time in Hungary against the Turks. In the Parliaments of Elizabeth, which met in May, 1572, and November, 1584, he represented his native county of Cornwall, and some time between those dates received the honour of knighthood. He participated in the enterprise which founded the colony of Virginia, and proved himself in many ways a redoubtable captain on sea and land. But his title to fame is the immortal combat which he fought at the Azores, in September, 1591, when with his single ship, the *Revenge*, he challenged an Armada of Spain.<sup>4</sup> It cost him his life, but has given him a renown which will endure as long as the English language lasts, enshrined in Tennyson's glowing lines.

Towards the close of the sixteenth century there are entries in the Middle Temple Records showing that clerks of members were occasionally admitted fellows of the House. Thus, Antony Sawrey, on November 6th, 1590, was admitted without fine because he was the Treasurer's clerk;<sup>5</sup> John Gwynn, on

<sup>1</sup> State Trials (Howell), II, 16.

<sup>2</sup> Edit. 1576. Gascoigne's Epistle Dedicatorie is dated April 15th. See also D.N.B. XLVII, 187.

<sup>3</sup> The record is in a book of Admittances for the years 1547-69. It is unfortunately somewhat vague; dated March 10th, secundo Elizabethæ, it reads: "Ricus Grenefeld de Wolston in. Com. Cornub." No importance attaches to the spelling as the name was spelt in many different ways from "Greenfelde" to "Graynville." In the published list of Members of the Inn it has been rendered "Grenville." The significant thing is the date, which is just the time at which he would naturally have joined the Inn if the generally accepted year of his birth, 1541, is correct.

<sup>4</sup> September 10th and 11th: see English Reprints (Arber), "Last Fight of the *Revenge*," 1871.

<sup>5</sup> D. 212.

January 28th, 1594, as Serjeant Lewknor's clerk; <sup>1</sup> James Legge and Daniel Deane, in August, 1601, and March, 1603, respectively, as the Reader's clerk.<sup>2</sup> In both Societies it was also the practice to admit to membership in special cases officers who had given good service to the Inn. Richard Baldwyn was thus admitted in 1591 a member of the Middle Temple,<sup>3</sup> and on February 24th, 1594, John Wilson, late Steward of the Inn, was likewise made a member.<sup>4</sup> Earlier admittances of this kind probably occurred during the period of the lost Records, judging by evidence available in the case of the Inner Temple. There, on November 21st, 1546, John Slanning, on his resignation of the office of Steward, was made a fellow of the Society, discharged of all offices, etc., on terms to be at Clerks' Commons as long as he pleased, and not to be called to Masters' Commons against his will.<sup>5</sup> Other similar cases were Richard Canon, for his good service as Steward (October 22nd, 1547); <sup>6</sup> Bamford, a former Butler (April 15th, 1554); <sup>7</sup> Laurence Hamond, Steward, and formerly chief Butler, for his "trwe and faythfull service discharged of all offices and charges Comens pencyons and money payd to the reparacon of the churche onelye excepted" (January 27th, 1554); <sup>8</sup> and eight other officers between January 27th, 1565, and November 22nd, 1601, each of whom had served as a butler of the Inn.<sup>9</sup>

It was customary also in both Houses to grant from time to time special admissions *honoris causa*. The reasons for these grants are never stated in the Records, the general practice being to enter the name with the word "specialiter," indicating that the person so admitted was free of the ordinary duties and charges of membership. The explanation of this silence probably is that these admissions were usually granted by the Reader as incident to the hospitalities of his reading, and not on the initiative of the Masters of the Bench; though their concurrence is sometimes indicated. Whether any special ceremonial was observed on these occasions does not appear; probably not, as a public function at least, for the Inns of Court had no Public Orators to proclaim the merits of those whom they thus elected to honour.

At the Middle Temple admissions of this nature are most numerous towards the close of the century, though a few occur earlier in Elizabeth's reign. Thus, on February 2nd, 1561,

<sup>1</sup> D. 244.

<sup>2</sup> D. 306, 320.

<sup>3</sup> D. 218

<sup>4</sup> D. 245.

<sup>5</sup> A.P. I, 38.

<sup>6</sup> *Ibid.* 41.

<sup>7</sup> *Ibid.* 120.

<sup>8</sup> *Ibid.* 122.

<sup>9</sup> *Ibid.* 158, 163, 173, 212, 214; A.P. II, 22, 38, 43.

Henry Earl of Huntingdon and Lord Hastings of Loughborowe, K.G., were so admitted, and on February 2nd, in the following year, William Somerset, 3rd Earl of Worcester, John Lord Darcy, and George Hastings, Esq.<sup>1</sup> On November 27th, 1570, Master Bonde, citizen and alderman of London, was made a member of the Inn, free of all charges and demands except pensions.<sup>2</sup> This, no doubt, was William Bonde, a renowned merchant Prince of the time, the owner of Crosby Place, and who lies buried in the ancient Church of St. Helens, Bishopsgate; where a wall monument bearing two inscriptions commemorates his fame. The first (in Latin hexameters) describes him as the Flower of Merchants who, having suffered much at sea from rocks and waves, enriched his native shores with foreign merchandise and bids the poets of Greece acknowledge that here lies a merchant greater than the Grecian Jason, one who bore away many fleeces more golden than the fleece of Phryxus and ploughed through many seas more tempestuous than the waves of Phasis. The second, in English prose, proclaims him: "Alderman sometime Shreve of London; a Merchant Adventurer moste famous in his age for his greate adventures by sea and lande." Elected Sheriff of London in 1567, he died May 30th, 1576. The great interest taken in maritime enterprises in the reign of Elizabeth would sufficiently account for the admittance of this distinguished citizen, but the Inn seems to have been under some special obligation to him, for the members pledged themselves to advise him *gratis* in all common law proceedings at Westminster, and never to give counsel against him. In this case the admittance was not merely by the Reader, but with the consent of the Masters of the Bench.

In February, 1590, Walter Bayley, physician to the Queen, and, in August, 1591, Edward Somerset, 4th Earl of Worcester (recently Ambassador to Scotland), and Thomas Lord Howard Viscount Bindon, were thus admitted; <sup>3</sup> and on February 2nd, 1592, Sir Francis Vere, Sir Thomas Norris, and Sir Martin Frobisher (the distinguished navigator), all of whom had shortly before taken part in an expedition against the coast of Spain.<sup>4</sup> In the next year the Inn, on February 24th, honoured in like fashion Sir John Hawkins (with Drake the terror of the Spanish

<sup>1</sup> D. 42, 49. These admissions were signed by Edmund Plowden, as Treasurer.

<sup>2</sup> D. 92; M.T.R. 174; see also D.N.B. V, 340.

<sup>3</sup> D. 215, 219. Lord Worcester's name is incorrectly entered as "Thomas."

<sup>4</sup> D. 227.



Main), and on May 4th, 1594, Henry Earl of Northumberland, his brother, Sir Charles Percy, and Antony Viscount Montagu, grandson of Sir Antony Browne, Chief Justice of the Common Pleas, and a former member of the House ; <sup>1</sup> while on March 14th, 1597, Sir Edward Norris, described as Governor of the Fort called Oaste-ende in Flanders, a soldier who had served with distinction in the Low Countries, was likewise so admitted.<sup>2</sup>

Other instances occur of this courtesy being extended to members of the City Corporation with which the Middle Temple seems to have maintained very friendly relations. Thus, in March, 1595, two aldermen, Robert Lee and John Watts, each of whom later filled the office of Lord Mayor and was knighted, were made members of the Inn.<sup>3</sup> Alderman Watts had shown his public spirit in the Armada crisis by lending his ship, the *Margaret and John*, to fight the Spaniards, and himself serving on board as a volunteer in the thickest of the fray ; while his subsequent enterprise in fitting out privateers earned him the reputation with the King of Spain of being the greatest pirate in the kingdom.<sup>4</sup> He was also one of the founders of the East India Company, and its governor in 1601. Finally, in August, 1602, Henry Anderson, one of the Sheriffs of London, was also specially admitted.<sup>5</sup>

Admissions of honour were also granted by the Inner Temple Society. It was no doubt in this way that Lord Robert Dudley (later Earl of Leicester) was made a member of that Inn on December 22nd, 1561, during those astonishing Christmas celebrations which so delighted Gerard Legh.<sup>6</sup> Other similar admissions granted at that time included Charles Lord Nevill, eldest son of the Earl of Westmorland, on December 30th ; William, first Lord Howard of Effingham, Lord High Admiral and Lord Chamberlain, and Sir Henry Carey, Lord Hunsdon, a cousin of Queen Elizabeth through his mother, Mary Boleyn, both on January 1st ; Lord Ambrose Dudley (Lord Robert's brother), Master of the Queen's Ordnance, and later Earl of Warwick, on January 3rd ; and on March 17th, Sir Edmund Brydges, Lord Chandoy, a notable soldier of the time.<sup>7</sup> Of the same nature appears to have been the admission of Sir Walter Devereux, ennobled as Viscount Hereford and Lord Ferrers of Chartley (later Earl of Essex), on February 2nd, 1562.<sup>8</sup> Next,

<sup>1</sup> D. 234, 238. The admittance of Sir John Hawkins reads, "Johēs Hawkinēs miles admissus est in societatem Medii Templi specialiter per Magistrum Cavell lectorem."

<sup>2</sup> D. 276.

<sup>3</sup> D. 256.

<sup>4</sup> D.N.B. LX, 70.

<sup>5</sup> D. 315.

<sup>6</sup> Admissions Bk. (1547-69), 26.

<sup>7</sup> *Ibid.* 26, 27, 28.

<sup>8</sup> *Ibid.* 31.

in June, 1580, Philip Howard, Earl of Arundel, and Thomas Lord Howard de Walden were specially admitted members of the Inner Temple;<sup>1</sup> and on January 28th, 1581, Sir Francis Drake, newly returned from his daring exploit of circumnavigating the globe.<sup>2</sup> On October 13th, 1588, Robert Devereux, second Earl of Essex and Master of the Queen's Horse, the ill-fated favourite of Elizabeth, whose rash presumption eventually brought him to the scaffold, was admitted a member.<sup>3</sup> While in Lent, 1601, there were the following further admissions of honour to the Inner Temple granted by the Reader, and later confirmed by parliament: Dudley Lord North of Kirtling (Cambridgeshire); Sir Robert Carey, Lord Warden of the Welsh Marches, Kt.; Sir William Courtney of Powderham (Co. Devon), Kt.; Francis Manners of Belvoir (Co. Leicester), Esq.; and Charles Parker, son of Lord Morley.<sup>4</sup>

In this reign also objection was taken by the Crown to Attorneys being members of the Inns of Court, though it did not amount to an absolute prohibition. The objection is in the Queen's orders of 1574:

"Item, that if any hereafter admitted in Courte<sup>5</sup> practyse as Attorney or sollicitor they be dismissed and expulsed out of their howses thereupon, except the persons that shalbe sollicitours shall also use the exerceyse of lerninge and Mooting in the Howse and so be allowed by the Benche."<sup>6</sup>

As will be seen later, Elizabeth's successor on the throne issued a much more stringent order upon this matter.

In both the Societies there were ordinances forbidding members of the same Inn to be of counsel against each other, or to sue one another in the Courts, unless authorized so to do by the Masters of the Bench. Thus, on April 28th, 1559, the parliament of the Middle Temple enacted that no member of that Inn should voluntarily be of counsel against a fellow member unless in consequence of kinship or other just cause, nor implead another member in any personal action without leave obtained

<sup>1</sup> Admissions Bk. (1571-1640), p. 101.

<sup>2</sup> A.P. I, 203: "Franciscus Drake Miles admittitur ad societatem hujus hospicii super finem et ad discrecionem Thesaurarii."

<sup>3</sup> Admissions Bk. (1571-1640), 174; A.P. I, 222.

<sup>4</sup> Admissions Bk. 294, 295; A.P. II, 44

<sup>5</sup> To an Inn of Court.

<sup>6</sup> Acts of Council, VIII, 246.

from the Bench.<sup>1</sup> The Records of the Inner House afford earlier evidence of this rule. There, in 1516, a member, named Champnes, having sued another, named Andrewes, without the licence of the Governors first obtained, was compelled for such default to put himself upon the mercy of the Fellowship.<sup>2</sup>

The increasing number of admissions to the Temple Societies during this reign caused overcrowding, and the Records of both Inns show considerable activity in the erection of new chambers. There is still, however, in the case of the Middle Temple, little information to show where such chambers were situate. The references to them occur chiefly in admittance entries and are vague. Thus, in November, 1568, John Daniell, the nephew of Thomas Daniell, late Treasurer of the Society, was admitted to any vacant chamber which might please him without fine because his uncle had spent much labour and money on the new "Bricke Buyldings."<sup>3</sup> Probably the Society had little money to spend on such enterprises, for new chambers at this time were generally erected by individual members at their own expense, the Benchers in return acknowledging a certain proprietary interest in the member who had incurred the outlay. Later, it became the regular practice to give the builder a life interest, with the right to make one or more assignments to take effect thereafter. In 1571 an admittance to chambers newly erected over the wood and coal house is recorded,<sup>4</sup> and in November, 1575, there is an entry that the chambers which Master William Herbert, one of the fellows, will build on the site of the old kitchen shall be granted to him for life; that no one else shall be admitted thereto during his life, by the Treasurer; that he shall not forfeit them for discontinuance, being out of Commons or any other cause; and that he may assign them or leave them by will to any other member or members of the Inn to hold on similar terms.<sup>5</sup> So, likewise, in May, 1577, three members who had erected three several chambers with other buildings over the end of Master Napper's chamber were authorized to enjoy them severally for life without prejudice, and with power of assignment thereafter to any fellow of the House with the same rights.<sup>6</sup>

<sup>1</sup> D. 30; M.T.R. 122.

<sup>2</sup> A.P. I, 24; I.T.R. I, 38: see also *Proutz v. Ticheburn* (1529), A.P. I, 81; I.T.R. I, 95.

<sup>3</sup> D. 84. "Novis latericiis edificiis vulgariter nuncupat, the Bricke Buyldings." Dugdale says this was Brick Court.

<sup>4</sup> D. 96: "Super domum noviter constructum ad reponendum lignum et carbones."

<sup>5</sup> D. 117; M.T.R. 207.

<sup>6</sup> D. 124; M.T.R. 216.

Similar privileges were conferred in the following November on two members in respect of two chambers, lately built by Mr. Archer under a gallery in "le vyneyeard."<sup>1</sup> Again, in May, 1578, there is a grant for life on like terms to three members of nine separate chambers built by them on the wall of Lord Windsor's chamber;<sup>2</sup> and in March, 1583, new buildings are mentioned "in the Middell Temple adjoininge to the olde gallery that crosses over the Temple Lane," in which the three uttermost chambers faced eastwards towards the Temple Church. These buildings had been erected by Mr. William Tusser of the Middle Temple, an ancient of the Utter Bar.<sup>3</sup> In the following year an entry occurs which states that the Queen, having been at "great cost and charges for the re-edifyinge and newe buildinge of the Temple Bridge and stayres," the two Inns will henceforth each repair one-half, and have bound themselves to do this by a decree in the Exchequer.<sup>4</sup> No doubt Elizabeth herself made use of this bridge or pier occasionally on her passage from Westminster or Greenwich; for the Thames was still London's greatest highway. In the summer of 1582 a new building was erected by Master Popham, then Attorney-General and Treasurer of the Inn. To this fifteen admittances were granted in the following February.<sup>5</sup> Further building took place in the next year by three members of the Inn. These chambers seem to have adjoined the garden.<sup>6</sup> Finally, Master Sandys, the next Treasurer, besides building two chambers over the one he himself occupied, erected seventeen new chambers in "le garden," mention of which occurs in November, 1594.<sup>7</sup> These last seem to have been on the west side of the garden, as the consent of the Earl of Essex was obtained to their construction.<sup>8</sup> An entry acknowledging the Society's obligations to Master Sandys for this and other benefits is signed by fifteen Masters of the Bench.<sup>9</sup>

Sometimes the record of admittance to a chamber states no fine has been paid because the chamber is ruinous or out of repair, and will be repaired by the entrant.<sup>10</sup> These admittance entries appear to have been the sole evidence of title, no grants

<sup>1</sup> D. 125.

<sup>2</sup> D. 129.

<sup>3</sup> D. 166, 178.

<sup>4</sup> D. 167.

<sup>5</sup> D. 157.

<sup>6</sup> D. 159.

<sup>7</sup> D. 242 (Benn); also 258.

<sup>8</sup> D. 257 (Adams). The property (formerly Exeter Inn) which bounded the Temple on the west was at this time the residence of Robert Devereux, Earl of Essex.

<sup>9</sup> D. 258, 259.

<sup>10</sup> D. 265 (Jones): "Valde ruinosa."



being made by deed or other writing. At the Middle Temple, like the admittances to the Society, they are generally made in Latin. A similar system prevailed in the Inner Temple in regard to the erection of new chambers and the repair or rebuilding of such as had fallen into decay,<sup>1</sup> though there is evidence of the Society itself occasionally bearing the cost.

If the references to new chambers in the Middle Temple, noticed above, are too meagre to admit of their sites being now satisfactorily determined, there is at least one building of this reign, as to the position of which there is no doubt, for it happily still exists. This is the new Hall of the Society which, after the Church of the Knights, constitutes the chief architectural interest of the Temple. The site selected for this building was on the west side of Middle Temple Lane, opposite but rather nearer the river than the ancient Hall, which the members had hitherto used, and which stood on ground now included partly in Pump and partly in Elm Court. This spacious edifice, admirably proportioned with its handsome screen and splendid timber roof, cannot have been erected without great expense, which must have placed a severe strain on the resources of the Inn. It is therefore surprising that the contemporary Minutes of parliament contain no mention of any committee appointed to report upon the project, or of any resolution to commence so important an undertaking. Further, as no accounts relating to this period are now in the possession of the Inn, no information is available as to the outlay involved.<sup>2</sup> Allusions to the building of the Hall, which occur in the Minutes, help to fix approximately the dates within which it was carried on, and show how some of the necessary money was raised; but nothing more. The first reference to the undertaking is in an order of November 24th, 1562, which directs that until the completion of the New Hall,<sup>3</sup> each member shall bear the cost of the repairs of his own chamber on pain of forfeiture, except those paying rent, in which cases repairs will be allowed for. In May, 1567, when Plowden retired from office as Treasurer, there is an entry stating that Master Plowden nevertheless remains Proctor and Promoter for building the new hall and making collections; <sup>4</sup> but no earlier

<sup>1</sup> A.P. I, 163, 164, 174, 181, 182, 183, 187, 192; and I.T.R. I, Intro. lxxiv.

<sup>2</sup> Possibly at this time the Accounts in both Inns were treated as the private property of the Treasurer, and not deposited with the Inn. Later a book was provided in which they were ordered to be entered. From 1606 such books have been preserved at the Inner Temple.

<sup>3</sup> D. 47: "Donec perficietur structura novæ aulæ," etc.

<sup>4</sup> D. 77: "Mro Plowden remanente procuratore et promotore nihilominus

minute records his appointment to any such office. It might almost be inferred (from their silence) that the Benchers took little interest in the undertaking, and were resolved to make as few references to it as possible. It is certainly surprising that while the Minutes of parliament contain resolutions sanctioning the rebuilding and letting of small shops in the Inn, they show no authority for the erection of this sumptuous hall, which was to far outclass every other building of the kind possessed by an Inn of Court in that day.<sup>1</sup> The silence of the Minutes would be explicable if the undertaking had been a private one initiated and carried out by the enterprise of a few members only, and not a work for which the Society as a whole accepted responsibility. But from the methods adopted to raise the money required to meet the cost it is clear that this was not the case. All the members were assessed to contribute and, where necessary, disciplinary measures were resorted to for the purpose of enforcing payment.

The chief credit of the building has long been given to Edmund Plowden, the distinguished son of the House, whose bust now adorns the lower or east end of the Hall. He assumed office as Treasurer towards the close of June, 1561,<sup>2</sup> and in the absence of any direct evidence upon the matter it seems a fair inference that the building began some time after that date, and not later than the order above mentioned of November 24th, 1562. Plowden's name and arms (*azure a fess dancetté flory or*), with the date 1573, are in the central space at the top of the south bay window at the west end of the Hall. They are accompanied by an inscription in Latin which states: "The greatest care of this man completed this work for those who cultivate the Laws: To them be honour through all time." The figures, 1573, probably signify the year in which Plowden's work of building and fitting up the Hall was finished; but it may have been opened for use by the Society somewhat earlier, for the date 1570 has been prominently inserted in the east

ad novam aulam edificandam et ad Collectiones Colligendas." A similar order was made in May, 1574, on the appointment of another new Treasurer: see D. 111.

<sup>1</sup> Some years earlier the Society of Gray's Inn had improved their Hall. In 1553, when Nicholas Bacon, Attorney of the Wards, was Treasurer, it had been freshly wainscoted; and between 1556 and 1561, under the same distinguished lawyer (as Lord Keeper), it had been handsomely re-edified at a cost of between £800 and £900 (Pension Bk. I, 496-498). But charming as this Hall undoubtedly is, it cannot in size and dignity compare with the new Hall of the Middle Temple.

<sup>2</sup> Elected Treasurer, June 20th: D. 39.



*J. P. Malcolm del.*

MIDDLE TEMPLE HALL.

Shewing the position of the Bench table, cupboard, and fireplace. 1800.





window behind the gallery which is over the screen.<sup>1</sup> The length of time required to finish the building may be explained by difficulties encountered in raising the necessary money. Moreover, between June 27th, 1563, and April 24th, 1564, all work on the structure must have been suspended, for there is a record that during that interval of time nothing was done in the Society on account of the pestilence.<sup>2</sup>

At the commencement of the building a levy was made upon all members to meet the cost, though by what authority there is nothing to show. In May, 1563, an order is minuted that three members (Wasse, Cressy, and Mockett) shall lose their chambers for not paying their contributions to the new Hall on the days appointed and proclaimed at the Cupboard,<sup>3</sup> and on June 26th following a fresh admittance is recorded to one of the chambers so forfeited.<sup>4</sup> In November it was further ordered that members not coming or refusing to be assessed to contribute to the new Hall should be assessed by the Masters of the Bench at their pleasure and pay without delay.<sup>5</sup> On February 8th, 1570 (13 Elizabeth), the expedient of increasing the pension money charge (3s. 4d. per annum) for three years was resorted to. Under the new scale, Benchers paid 10s. a term; Utter Barristers (extra Barristers), Common Attorneys, and Officers in any great Court, 6s. 8d. each; other Masters, 3s. 4d. Subsequent orders continuing this increase were made in 1571, 1574, 1575, and 1577.<sup>6</sup> It appears from further entries that members were invited to lend money for building the Hall, and did so.<sup>7</sup> On February 8th, 1571, a system of forced loans was introduced, which is described by a side note in the Minute Book as "a generall tax for the hall." Under this order each Bencher was required to lend to the Treasurer "for the Hall and other build-ings," £3; each Utter Barrister, Common Attorney, and Officer in any of the great Courts, 40s.; and others of the Fellowship, 20s., as soon as possible before the Ascension.<sup>8</sup> If, as has been generally assumed, the Temple Societies were at this time tenants by the year only, of the premises they occupied, it is certainly surprising that this Hall should ever have been erected. For on the well-known principle, *Quicquid plantatur solo, solo*

<sup>1</sup> Master Worsley's Book (1734) says the Hall was "finished with all its ornaments about 1571," but cites no authority.

<sup>2</sup> D. 53.

<sup>3</sup> D. 51.

<sup>4</sup> D. 52. That of Cressy.

<sup>5</sup> D. 83; M.T.R. 166.

<sup>6</sup> D. 93, 110, 116, 124; M.T.R. 176, 197, 206, 215.

<sup>7</sup> D. 65, 89, 121, 124; M.T.R. 151, 171, 212, 327.

<sup>8</sup> D. 93; M.T.R. 176.

*cedit*, as soon as built it became part of the freehold, which was the property of the Crown, and Elizabeth might at her pleasure have deprived the builders of its use by terminating their tenancy of the Temple premises. No doubt they had confidence in the Tudor appreciation of lawyers, and the friendly disposition of the Queen towards them; but human life is uncertain, and they had no reason to assume that her successors would exercise a like forbearance.

The imposing wainscot screen at the east end of the room, which is so fine a feature of the Hall, was of slightly later construction, the date generally assigned for its erection being 1574.<sup>1</sup> The only mention of the screen in the Minutes of parliament occurs in February of that year, when an order was made fixing the contributions for it on the following scale, viz. : each Master of the Bench, 20s. ; each Master of the Utter Bar, Officer, and Common Attorney, 10s. ; other fellows, 6s. 8d.<sup>2</sup> There is no record showing what it cost, or who designed it, or by whom the carving upon it was executed. From the remarkable resemblance it bears to the great screen erected in the Hall of Audley End, there is reason to think it may be, as that other masterpiece is believed to have been, the product of Italian workmanship.<sup>3</sup>

This admirable building, correctly described in Master Worsley's Book as "a spacious beautifull and stately room and may vie with any of the like nature in the kingdom,"<sup>4</sup> is 100 feet in length, including the passage at the east end behind the screen, and 40 feet wide, except where the north and south bays at the west end give some additional width. In height 45 feet, it is lighted by six windows on each side and one at either end, all of which are now filled with stained glass (some of it of great antiquity), heraldic memorials of Sovereigns, and former members of the House. Apart from the screen, which is richly carved, the chief feature of the interior is the splendid open hammer beam roof, whose graceful timbers, now darkened by the hand of time, give to the whole room a unique dignity and charm.

<sup>1</sup> The screen doors were not added till 1671 : E. 156. As much as £20 was paid to the carver of these doors in July, August and September, 1671 (see MT. Cal. 174).

<sup>2</sup> D. 114 ; M.T.R. 204.

<sup>3</sup> The great house built about this time by Lord Howard de Walden, grandson of Sir Thomas (Lord) Audley, L.C. (H. VIII) : see Foss, V, 133, and Hist. of Audley End by Lord Braybrooke (1836), p. 98 and Frontispiece.

<sup>4</sup> Ingpen Edit. 104.

The Hall was provided with a fireplace, which, following the custom of the age, was in the centre of the room ; <sup>1</sup> the smoke being left to find a devious way out through the lantern in the roof. This fireplace no longer exists, having been removed pursuant to an order of February 12th, 1830.<sup>2</sup> The high or bench table at the west or upper end of the Hall, and which exceeds 29 feet in length, is of oak, said to have grown in Windsor forest and to have been the gift of Queen Elizabeth. To the same royal bounty tradition also attributes the Cupboard or square table which stands below it.<sup>3</sup> In the entrance passage under the gallery hangs an ancient lamp which bears (*i.a.*) the arms of the great Queen, Sir Walter Raleigh, and Sir Francis Drake. Its origin is not known, and although some of the glass in it is modern, it seems not improbable that the lamp itself dates from about the close of the sixteenth century. The exterior of the Hall has been subject to alteration from time to time, especially the entrance, which was not at first surmounted by a tower, but by two chambers. The present tower was erected in 1832.<sup>4</sup> No part of the building is now used as chambers, but when it was first erected the space underneath the Hall was so utilized, and in addition to the chambers over the entrance there was also another at the east end.<sup>5</sup>

The opening of so sumptuous a building for use by the Society must have been made the occasion of some ceremonial. But upon this the Benchers' Minutes are wholly silent, nor has any reliable information upon the point been found elsewhere. This is disappointing, for, having regard to the manners of the time, it seems hardly credible that the event should not have been marked by some great festivity. Perhaps the Queen herself was present to honour the occasion attended by a train of courtiers.<sup>6</sup> Her joy was great in pageantry and shows, and in dancing she found much delight. But there, in the absence of any authentic information, the chronicler must leave it, regretting that in respect of all such interesting episodes the Benchers' Minutes are invariably a barren record.<sup>7</sup>

<sup>1</sup> This is true laterally, but longitudinally it was nearer the upper end of the Hall than the lower end, being directly under the lantern.

<sup>2</sup> Bench Book, 103, note 3.

<sup>3</sup> Worsley's Bk. (Ingpen), 58 note.

<sup>4</sup> *Ibid.* 79, 105.

<sup>5</sup> D. 95, 109.

<sup>6</sup> "Queen Elizabeth, who it is said used often to honour the Middle Temple Hall with her royall presence" : Worsley's Bk. Downing's MS. anno 1739.

<sup>7</sup> The silence of the Minutes proves nothing to the contrary. For in them all festivities (unless they call for discipline) are consistently ignored.

Unhappily the building of the new Hall was followed by serious interference with the old one. This no doubt was due to the urgent need of further chambers in the Inn,<sup>1</sup> but it is matter for regret that the Society when erecting their new Hall did not preserve the old one intact, invested as it must have been with many associations with the Knights of the Temple. The growing population of London in the latter part of the sixteenth century caused grave concern to Elizabeth and her counsellors, and she appears to have regarded with apprehension the increasing numbers in the Inns of Court. Hence the orders issued in 1574 to the four Societies included the following :

“Imprimis that no more in number be admitted from hensforthe than the chambers in the houses will receave after two to a chamber ; nor that any more chambers shalbe builded to increase the number, savinge that in the Midle Temple they maye convert their old hawle into chambers not exceedinge the number of tenne chambers.”<sup>2</sup>

This permission was at once taken advantage of and alterations begun, which eventually resulted in the total destruction of the old Hall, so that with the possible exception of part of the foundations which may still exist underground, no fragment of it now remains.<sup>3</sup>

Thus, under the date November 28th, 1574, there is an admittance to a chamber to be newly built in the old Hall,<sup>4</sup> and in the following February the upper part of the old Hall was assigned to three members to build chambers to be granted to them for life.<sup>5</sup> By November, 1577, two chambers had been built over the walls of the old Hall and were assigned to four

<sup>1</sup> In illustration of the overcrowding in the Inn at this time may be cited the following admittance of Stephen Powell (May 10th, 1577) to the Lord Chief Baron's bedchamber : “Admissus est in cubiculum Domini Capitalis Baronis et dat pro fine 40/-” : D. 123. This was followed, however, on November 26th by an order that henceforth all Masters of the Bench should have their bedchambers to themselves for life : “Et ultimus ad hoc parliamentum ex assensu omnium magistrorum de Banco ordinatum est quod dehinc quilibet magistrorum de Banco habeat cubiculum suum solus durante illorum vita tam Lectores quam alii et nullus admittatur in illis” : D. 125.

<sup>2</sup> D. 112 ; Acts of Council, VIII, 246.

<sup>3</sup> It may be suggested that the old Hall must in any case have been destroyed in the fire of 1678 ; but as it was a stone building of exceptional strength, the fire could hardly have injured it beyond repair.

<sup>4</sup> D. 113 (Meade).

<sup>5</sup> D. 119 ; M.T.R. 209.



nominees, two to each chamber ;<sup>1</sup> while in 1578 eight chambers, built by Mr. Allan Bellingham at the upper end of the old Hall and above the walls thereof, were granted to him for life and with the usual power of assignment.<sup>2</sup> These last, perhaps, completed the ten of the Queen's allowance. In February, 1584, a member of the Inner Temple was admitted to the north part of the old Hall (where Mr. Forde kept his office) at a rent of 26s. 8d. per annum.<sup>3</sup>

There was also much building in the Inner Temple the royal orders notwithstanding. In 1560 chambers had been there erected by Master Fuller, Treasurer of the Inn, which, in acknowledgment of his great labour on them and £100 he personally paid to discharge the final debt to labourers and workmen, were named Master Fuller's Rents.<sup>4</sup> Later, in a list of Bench chambers, they are described as erected in two rows.<sup>5</sup> They occupied the site now covered by the modern Mitre Court Chambers. An outlet from these chambers, which the Benchers permitted to be made through Ram Alley into Fleet Street,<sup>6</sup> was subsequently the cause of much annoyance on account of undesirable persons obtaining access by it to the Inn Garden. Next, Lord Robert Dudley, as Master of the Alienation Office, rebuilt that office at the top of the King's Bench Walks and adjoining Fuller's Rents, "to his great charges and of his good zeal to the House and the beautifying thereof." This building shut off from the Walks a space of ground which, bounded on the north by the wall of Serjeant's Inn, on the east by Whitefriars, and on the west by Fuller's Rents, later became known as the Alienation Office Garden.<sup>7</sup>

In November, 1577, Robert Woodleaf, a fellow of the House, was licensed to build such rooms as he thought convenient upon the wall of Whitefriars, between Mr. Harrison's new chambers (at the lower end of the garden) and the long or Benchers' Alley ;<sup>8</sup> while on June 19th, 1579, Master Edward Stapleton and three other members of the Society were authorized to erect a further building at the lower end of the great walk commonly called the Benchers' Walk.<sup>9</sup> An order

<sup>1</sup> D. 125 ; M.T.R. 218.

<sup>2</sup> D. 128 ; M.T.R. 219. To be occupied by him and his five sons in survivorship.

<sup>3</sup> D. 165 ; M.T.R. 266.

<sup>4</sup> A.P. I, 151.

<sup>5</sup> *Ibid.* 219.

<sup>6</sup> *Ibid.* 158 (January 27th, 1565).

<sup>7</sup> *Ibid.* 185. The site is to-day the waste ground behind King's Bench Walk, No. 3 North.

<sup>8</sup> *Ibid.* 187.

<sup>9</sup> *Ibid.* 192.

made on July 5th of the same year, forbidding the granting of any further licence to make any new building within the circuit of the House,<sup>1</sup> seems to have been only the expression of a pious aspiration, for in May, 1581, Thomas Crompton received a life interest in diverse chambers, lodgings, and rooms, which at his great charges he undertook to erect within the compass of the garden or Little Court of the House towards the Middle Temple Gate,<sup>2</sup> and further building licences were granted in 1583, 1584, 1589, and 1591.<sup>3</sup> Four years later (February, 1595) Julius Cæsar, a Master of the Court of Requests and Judge of Admiralty, a former Treasurer of the Inn, was granted a life interest in, and empowered to nominate tenants for, "divers faire and necessary roomes" erected by him at a cost to himself of £300 or thereabouts, and subsequently known as Cæsar's Buildings.<sup>4</sup> These last, however, were constructed in place of an older building pulled down. Mr. Inderwick fixes the site on the east side of the space between the church and the Inner Temple Hall.<sup>5</sup>

Further rebuilding was also carried out by Master Nicholas Hare, a Bencher of the Inn and nephew of Sir Nicholas Hare, Master of the Rolls under Queen Mary. His name attached to these chambers still survives in Hare Court.<sup>6</sup> Another member of the same family, John Hare, an official of the Court of Wards, obtained leave in May, 1590, to rebuild chambers which included the Fine Office in order to supply an office for his own Court.<sup>7</sup>

Finally, in a Minute of November 23rd, 1600, mention is made of the new building, repairing, mending, and trimming up of the old chambers and rooms of late in "greate ruyne and decaye situate and beinge in and uppon the West syde of the Lane commonlye called the Temple Lane leadynge from the Temple church and cloisters into Fleete Streete."<sup>8</sup>

In 1577 there was a general call of new Serjeants, seven counsel being summoned to receive the degree. Of these only one, Master Edward Fenner (afterwards for twenty-one years a Judge of the Queen's Bench), was of the Middle Temple;<sup>9</sup>

<sup>1</sup> A.P. I, 192.

<sup>2</sup> *Ibid.* 201.

<sup>3</sup> *Ibid.* 206, 211, 226; A.P. II, 6.

<sup>4</sup> A.P. II, 24. This minute is signed by Ed. Coke as Treasurer.

<sup>5</sup> I.T.R. I, Intro. lxxiii.

<sup>6</sup> A.P. I, 219; A.P. II, 1: "Near the upper end of the cloister called Master Hare's Courte."

<sup>7</sup> A.P. II, 3.

<sup>8</sup> A.P. II, 39: see also A.P. I, 99.

<sup>9</sup> Foss, VI, 152.

two, Messrs. Francis Gawdie and Edmund Anderson (each subsequently Chief Justice of the Common Pleas), were of the Inner House.<sup>1</sup> The new Hall of the Middle Temple Society being now completed, the Feast of the Serjeants was held there on this occasion. As this is the earliest entertainment given in the Hall of which there is record, some particulars regarding it, preserved by Sir William Dugdale, are inserted here.<sup>2</sup>

Sir Thomas Barrington was Steward of the Feast and Sir Henry Cocks Comptroller. Four tables were provided for the new Serjeants and their guests. At the upper table, the place of honour, sat the Privy Council and certain noblemen who attended. At the south high table the Lord Mayor and his brethren of the Court of Aldermen; at the north high table the new Serjeants in their robes and coifs, each separated from the other by a space of two yards. No doubt for the greater maintenance of their dignity. While at a long table in the centre of the Hall sat all the Judges, the Master of the Rolls, the Barons of the Exchequer, the old Serjeants, and the Attorney and Solicitor-General (Gilbert Garrard of Gray's Inn, later Master of the Rolls, and Thomas Bromley of the Inner Temple, afterwards Lord Chancellor). At this time Sir Christopher Wray (of Lincoln's Inn) was Chief Justice of the Queen's Bench,<sup>3</sup> Sir James Dyer (of the Middle Temple) Chief Justice of the Common Pleas, and Sir John Jeffry (of Gray's Inn) Chief Baron of the Exchequer. The viands were served by the officers of the Feast assisted by the young gentlemen of the Middle Temple, first to the upper table, next to the Lord Mayor and those with him, then to the Judges' table, and lastly to the new Serjeants and the rest of the company. The new Serjeants, as became their state and dignity, had each his carver, cup-bearer, and sewer of the gentlemen of the Inn from whence he came, standing before him; "and so they dined with sober countenances and little communication."

The Feast was served in two courses. At the conclusion of the first course the new Serjeants rose and, accompanied by the officers of the Feast and the Warden of the Fleet, visited in succession the several tables at which their guests were seated, saluting all in turn. They then resumed their places, and the

<sup>1</sup> Foss, VI, 51 and 158.

<sup>2</sup> See O.J. 119-126.

<sup>3</sup> Dugdale gives the speech addressed by the Chief Justice to the new Serjeants at this creation; it included (*i.a.*) the following advice: "to be discreet, to ride with six horses and their sumpter on long journeys; to wear their habit most commonly in all places at good assemblies; to ride in a short gown and to keep the Common Pleas bar."

second course began. When the feasting was over they again rose, and, standing, received and acknowledged the thanks and parting salutations of their guests, who for the purpose passed before them. On this occasion, in addition to other rings presented by the new Serjeants (of which Sir William Dugdeal gives a detailed account), they combined to give in common one ring of gold to the Queen's Highness of the value of £6 13s. 4d. bearing within it the motto *Lex Regis Præsidium*.<sup>1</sup>

Two other events of early occurrence in the new Hall are deserving of special notice. The first happened during the period of the Summer Reading, 1586. On Thursday, August 4th, while the fellowship were at dinner, Sir Francis Drake (described in the record as *unus de Consortio Medii Templi*), newly returned from the expedition on which he had set forth with twenty-five ships the year before against the Spanish Indies, unexpectedly presented himself in the Hall to renew his old comradeship with the members of the House, and was congratulated with great joy by all present upon his happy return. Fortunately the Benchers, contrary to their usual practice, deemed the incident worthy of commemoration in the Minute Book of the Society. The record, which is in Latin, is signed by Master John Savile, the Autumn Reader of the year, and four other Masters of the Bench who were also present on the occasion—Matthew Dale, Thomas Bowyer, John Agmondesham, and Thomas Hanham.<sup>2</sup>

John Savile, the Summer Reader at this time, was the brother of Henry Savile, Warden of Merton,<sup>3</sup> who became later Provost of Eton and founded the Savilian Professorships at Oxford. He was created a Serjeant-at-Law in 1594, and appointed a Baron of the Exchequer in 1598.<sup>4</sup> Matthew Dale was a double Reader of the Inn, and subsequently (1597) elected

<sup>1</sup> See O.J. *supra*.

<sup>2</sup> The record is as follows: Memorandum: Die Jovis quarto die Augusti Anno D'ni 1586 Annoque Regni D'ne Elizabethæ Regine 28<sup>o</sup> Franciscus Drake Miles, unus de Consortio Medii Templi post navigationem anno preterito susceptam et Omnipotentis Dei beneficio prospere peractam accessit tempore prandii in Aulam Medii Templi ac recognovit Joanni Savile Armigero tunc Lectori, Matheo Dale, Thome Bowyer, Henrico Agmondesham et Thome Hanham Magistris de Banco et aliis ibidem presentibus, antiquam familiaritatem et amicitiam cum consortio generosorum Medii Templi prædicti; Omnibus de consortio prædicto tunc in Aula presentibus cum magno gaudio et unanimiter gratulantibus reditum suum felicem": D. 184. The word "antiquam" points to Drake's membership of the Inn being at this time of old standing and sufficiently explains why he was not, like Sir John Hawkins, admitted *honoris causâ*.

<sup>3</sup> A member of the Inner Temple. See Admissions Bk. (1571-1640), 81 (March 30th, 1577).

<sup>4</sup> D. 182; Foss, V, 186, 187.



Treasurer.<sup>1</sup> Thomas Bowyer, Autumn Reader in 1577, had served again in that office in the preceding Lent.<sup>2</sup> John Agmondesham and Thomas Hanham were single Readers. Three years later the former read a second time and the latter was advanced to the degree of a Serjeant-at-Law.<sup>3</sup>

The second event of special interest was the acting in the new Hall on Candlemas Day, 1601, of Shakespeare's play, "Twelfth Night or What you will." There is no record of this in the books of the Inn, but John Manningham,<sup>4</sup> who was at the time an Inner Barrister of the House, was present on the occasion and noted it in his Diary as follows :

"Feby. 2nd. At our feast we had a play called Twelfth Night or What you will, much like the Commedy of Errors or Menechmi in Plautus but most like and neere to that in Italian called Inganni. A good practise in it to make the Steward beleve his Lady Widdowe was in love with him, by counterfeyting a letter from his Lady in generall termes, telling him what shee liked best in him and prescribing his gesture in smiling his apparaile etc., and then when he came to practise making him beleve they tooke him to be mad." <sup>5</sup>

It would be of interest to know who were present on the occasion. But Manningham vouchsafes no information as to that. The Feast, however, was one to which Judges and Serjeants, former members of the Society, were regularly invited as guests of the Inn, and which it was their practice to attend in their scarlet robes. It is therefore probable that the audience included Chief Justice Sir John Popham, Chief Baron Periam, Mr. Justice Fenner of the Common Pleas, and Mr. Baron Savile of the Court of Exchequer. The Treasurer, Master John Shurley,<sup>6</sup> and the Lent and Summer Readers of the year, Henry Haul and Austin Nicolls,<sup>7</sup> were no doubt present; the two latter being in duty bound to receive the guests and escort them to their places of honour at the Feast. Probably after the play was acted the measures were danced

<sup>1</sup> D. 264.

<sup>2</sup> D. 124, 178.

<sup>3</sup> D. 196, 204.

<sup>4</sup> Admitted March 16th, 1597; called to the Utter Bar June 7th, 1605; obiit 1622, when still holding a chamber in the Inn: see D. 276, 335, C. 181.

<sup>5</sup> Camden Society, XCIX, 18. For "Inganni" read "Ingannati"; *ibid.* note.

<sup>6</sup> D. 304.

<sup>7</sup> D. 307.

round the Hall by Benchers and Barristers in cap and gown, Reader Haul leading the steps according to the ancient use.<sup>1</sup>

Manningham is also silent as to who the actors were. Sir Sidney Lee in his *Life of Shakespeare* states that the comedy was acted by Shakespeare's company.<sup>2</sup> Manningham does not say so. But as it was not printed till 1623 and, therefore, still in MS. at this time, it does not seem likely any other company of players could have been in a position to produce it. Players who, in Elizabeth's reign, unless they acted under the patronage of some great person, were liable to be arrested as rogues and vagabonds, were not highly esteemed in the golden age of English Drama. It is, therefore, not surprising that the *Diarist* (who no doubt thought the occasion quite an ordinary one) does not condescend upon particulars as to who were included in the cast. The most that can be said is that it is highly probable Shakespeare himself was one of the performers.

The use which the House of Commons made of the Temple Church as a place of meeting for special committees has been already noticed. An even more frequent place of such meetings was the new Hall of the Middle Temple. Lawyers were plentifully represented in the Parliaments of the time, and six of the Speakers of Elizabeth's reign came from the Temple; there was, therefore, probably little difficulty in securing the use of the Hall for occasions of public business. The first appointment of a Committee to sit there was made on February 17th, 1580, when Sir John Popham, Solicitor-General, was Treasurer of the Inn and also Speaker. The subject of their deliberations was a bill framed against the Excessive Multitude of Attornies in the Court of Common Pleas.<sup>3</sup> This, however, was only a beginning, and during the rest of the reign and the early years of King James I, the Middle Temple Hall was constantly selected as the place of meeting for Committees of the Commons. Bills dealing with an extraordinary variety of subjects seem to have been there discussed from the true making of Hats and the preservation of the game of Pheasants to Trinity College, Cambridge, and Witchcraft and dealing with Evil Spirits.<sup>4</sup> Sometimes these Committees were directed to meet in the

<sup>1</sup> Next year Messrs. Nicolls and Shurley were created Serjeants-at-Law (D. 324). In 1612 the former was made a Justice of the Common Pleas (Foss, VI, 172).

<sup>2</sup> Edit. 1915, p. 329.

<sup>3</sup> Com. Journ. I, 127.

<sup>4</sup> *Ibid.* 160, 184, 226, 227, and thirty-nine other instances of meetings in the Hall. See Com. Journ. I, 128-252.

Inner Temple Hall and on rare occasions at Lincoln's Inn and Gray's Inn,<sup>1</sup> but such appointments were few when compared with the meetings held in the Hall of the Middle Temple.

There is no reference in the Minutes of the Temple Inns to the defeat of the Spanish Armada and the rejoicings which followed that event. But from an entry in the Black Books of Lincoln's Inn it is clear that the four Inns of Court played their part in the loyal greetings offered to Elizabeth on November 24th, 1588, when she made a State visit to St. Paul's in a public thanksgiving for the deliverance. This entry, which occurs in the accounts of the Inn for the year 1588/9, records the payment of £3 11s. by the Treasurer of Lincoln's Inn to Philip Cole, gent., Under Treasurer of the Middle Temple, for one quarter of the charges for the barriers and cloth (*obex et pannus*) of the stand (*statio*) for the gentlemen of the Inns of Court when the Queen went to hear a sermon at St. Paul's.<sup>2</sup> Stow has described the event in his Annals, and although the only lawyers he mentions are the Judges, it is evident from the above record that the gentlemen of the Inns of Court, like the members of the City Companies, were present to honour the occasion.

The Queen's procession was from Somerset House along the Strand and Fleet Street to the City, and the ancient ceremonial was observed at Temple Bar. It seems from the above payment that arrangements for the occasion were made by the Temple Inns, though where precisely on the route of the procession the Societies were stationed does not appear. Most probably it was near Temple Bar. Stow's account is as follows :

“ The 24th of November being Sunday, hir Majestie, having attendant upon her the privie Councill and nobilitie, and other honorable persons as well spirituall as temporall in great number, the French Ambassador, the Judges of the realme, the heraults, trumpettters and all on horsebacke, did come in a chariot throne made with fower pillers, behind to have a canapie, on the top whereof was a crown imperiall, and two lower pillers before, whereon stood a lion and a dragon, supporters of the Arms of England,<sup>3</sup> drawne by two white horses from Sommerset house

<sup>1</sup> Com. Journ. I (Inner Temple), 128, 157, 166, 241 ; (Lincoln's Inn), 95, 166, 185 ; (Gray's Inn), 214.

<sup>2</sup> Black Bks. II, 13. Mr. Cole was Under Treasurer 1583-91 ; see D. 159, 217.

<sup>3</sup> The Unicorn had not yet appeared as a supporter in the royal achievement.

to the Cathedrall church of Saint Paul, hir footemen and pensioners about hir : next after rode the Earl of Essex Master of hir horse, leading hir Majestie's horse of state richly furnished : after him a great number of ladies of honor, on each side of them the garde on foote in their rich coates and halbards in their hands. . . . Over the gate of the Temple-bar were placed the waites of the citie. And at the same bar the Lord Maior and his brethren the aldermen in scarlet received and welcommed hir Majestie to hir citie and chamber, delivering to hir hands the sceptre which after certaine speeches had, hir highnes redelivered to the Maior, and he againe taking his horse, bare the same before hir. The Companies of the Citie in their liveries stood in their railes of timber covered with blew cloth all of them saluting hir highnes as shee proceeded along to Paules Church, where at the great West doore shee dismounting from her chariot throne betweene the howers of twelve and one was received by the Bishop of London, the Deane of Poules, and other of the cleargy to the number of more than fiftie, all in rich coap, where hir majestie on her knees made hir hartie praiers to God : which praiers being finished, she was under a rich canapie brought through the long West Ile to hir travers in the quire, the cleargy singing the Litanie : which being ended she was brought to a closet, of purpose made out of the North wall of the church, towards the pulpit crosse, where she heard a sermon made by doctor Pierce Bishop of Salisburie and then returned through the church to the Bishop's palace, where she dined and returned in like order as before, but with great light of torches to Sommerset House." <sup>1</sup>

From an entry in the Minutes of the Inner Temple, dated July 6th, 1595, it appears to have been a rule of that Society in Elizabeth's reign not to admit as an ordinary member of the House <sup>2</sup> any person who belonged to another Inn of Court. This entry records information, communicated to the Benchers, that Mr. John Madockes had been admitted to the fellowship of

<sup>1</sup> Stow's *Annals*, Edit. 1592, p. 1282. See order of Queen's Procession as settled by Sir William Segar, Garter King of Arms, *State Papers Domestic* (Elizabeth's), CCXVIII, No. 38.

<sup>2</sup> This does not seem to have applied to admissions *honoris causâ*, for Sir John Hawkins was so admitted to both the Temple Societies.



the Middle Temple before his admission to the Inner House, and an order made thereupon "that he shall cause the contrary to be certified, upon paine of expulsion out of this House if the said informacion shalbe founde to be true." The person in question was a gentleman Usher of the Exchequer who had joined the Society from New Inn. He was required on November 3rd to attend at the board's end on Thursday next at dinner. When no doubt he proved that the information was untrue, for his name does not occur in the Middle Temple Records, and he was ultimately called to the Bar at the Inner Temple on January 29th, 1609.<sup>1</sup>

In 1576 the Chief Butler of the Middle Temple was directed to prepare a roll of the names of all persons in the Society and deliver it to the Treasurer for his signature.<sup>2</sup> Whether this direction was obeyed is uncertain. No such roll appears to be now in the possession of the Inn. If the intention was to form a list of members which should be kept up to date it failed in its object, the admittance entries in the Minute Books of the Benchers being still the only records of membership.<sup>3</sup> At an earlier date, February 8th, 1548, a parliament of the Inner Temple had made a similar order as follows :

"That the chieff butler schall from hensforth make and enter in a parchment roll all the namez surnames habitacion and county of every felowe and his speciall or generall admyttance and the day and yere theroff and his plegges." <sup>4</sup>

From this date a separate list of the Members of the Inner Temple Society has been prepared and published down to the year 1660.<sup>5</sup> It is not, however, a satisfactory roll of the Inn. It groups the names under years and does not give the actual dates of admission. It is also incomplete, as some important names are omitted. Though not a barristers' roll the dates of call to the Bar purport to have been added to this list under the names of those who proceeded to that degree. The very large number of cases during the reign of

<sup>1</sup> A.P. II, 18, 21, 22, 77 ; also II, 41.

<sup>2</sup> D. 120 ; M.T.R. 211.

<sup>3</sup> This applies to the admissions prior to November 27th, 1658 ; after that date they are entered in a separate Book of Admittances.

<sup>4</sup> A.P. I, 39.

<sup>5</sup> "Students admitted to the Inner Temple" : pub. 1877. The earliest roll appears to have been lost, for the book now containing the names from 1547 to 1569 only dates from 1664.

Queen Elizabeth, in which no such date is given, suggests that the great majority of those who joined the Inn at this time did not do so with the object of following law as a profession. From November 3rd, 1567, calls to the Bar at the Inner Temple, as already mentioned, are entered on the Minutes of parliament, and in the figures now given those Minutes have been followed. Between June 26th, 1574 (the earliest record of calls to the Bar at the Middle Temple), and the close of Elizabeth's reign, March 24th, 1602, there appear to have been 241 calls to the Utter Bar at that Inn, while for the Inner Temple during the same period the corresponding figure seems to be 175.<sup>1</sup>

A manuscript of the year 1586, preserved among the Burghley papers,<sup>2</sup> contains some interesting statistics showing the relative positions of the four Inns of Court towards the close of the sixteenth century. From this it appears that Gray's Inn had become the most prosperous of all the Houses of Court. The members attending there in Term time now numbered 356 and in vacations 229; while at Lincoln's Inn and the two Temple Inns the number for Term time is given as 200 in each case. In Reading time the number for Lincoln's Inn is 130, and for the Middle Temple 100. For the Inner Temple no figure is given for Term time, but for vacations the number is 80. This document supplies no information as to the chamber accommodation at Gray's Inn or in the Inner Temple, but at Lincoln's Inn it states there were 104 chambers and at the Middle Temple 138. As between the Inns there existed a comradeship which grouped them in pairs. Thus there was a special friendship or alliance between Gray's Inn and the Inner Temple, manifested by the blazon of the arms of the Inner Temple in Gray's Inn and those of Gray's Inn in the Inner Temple.<sup>3</sup> Though not similarly evidenced by heraldic devices (for at this time the Middle Temple had not adopted any) an ancient friendship also existed between that Society and the Society of Lincoln's Inn. It would be interesting to know how this grouping came about, especially whether it sprang from community of origin, but apparently no existing records throw any light upon the subject.

<sup>1</sup> In 1581 the Benchers of the Inner Temple complained of the great increase of Utter Barristers, and stated that if fewer were not called in future, the whole house would scarce suffice to receive Utter Barristers only: A.P. I, 203 (November 26th, 1581).

<sup>2</sup> Lansdowne MS. 106, fo. 92: see Black Bks. I, 460 (Appendix X).

<sup>3</sup> See Gen. Acct. Bk. I, 127: "Item paid to Bowen the paynter for paynting the posts and rayles without the gate and gilding the two Pegasus and two Griffens and gilding the vaynes, £20."

An incident which occurred in Queen Elizabeth's reign affords a picturesque illustration of this ancient friendship between the Inner House and the Society of Gray's Inn. In 1594 that fellowship decided to celebrate Christmas on a very splendid scale. For this purpose they set up a certain member of their Inn, Henry Helmes, a Norfolk gentleman, "a very proper man of personage and very active in dancing and reveling," as the Prince of Purpoole and surrounded him for the time being with all the dignity and state of a Court.<sup>1</sup> To this Princeling the Inner Temple, in recognition of their old-time friendship, decided to send an Ambassador, suitably attended as became the representative of the allied State of Templaria and towards his expenses the Treasurer (at this time Julius Cæsar, Master of Requests) by an order dated the Vigil of St. Thomas the Apostle (December 20th) was directed to disburse the sum of twenty marks.<sup>2</sup> At nine o'clock on the evening of the 28th (Holy Innocents' Day) the Ambassador appeared at Gray's Inn very gallantly appointed and bravely attended; where he was received in great state. A special entertainment had been planned in his honour, part of which was the performance of *The Comedy of Errors*.<sup>3</sup> But the fame of this Prince's magnificence had raised expectations so high and attracted such crowds, that the proceedings got entirely out of hand, and no sooner was the Ambassador duly placed than "there arose such a disordered tumult and crowd upon the stage that there was no opportunity to effect that which was intended." This *dénouement* caused high offence to the Templarians, who showed their resentment by departing in hot displeasure. After they had gone, however, order was sufficiently restored to enable the acting to proceed. As no affront had been intended means were soon found of appeasing the Ambassador's indignation, and he was persuaded to return on the evening of January 3rd, when the proceedings proved to be under better control, and Graius and Templarius, in one of the scenes presented, appeared "lovingly arm in arm."

<sup>1</sup> The full title of this Christmas royalty was "Prince of Purpoole Archduke of Stapulia and Bernardia, Duke of the High and Nether Holborn, Marquis of St. Giles and Tottenham, Count Palatine of Bloomsbury and Clerkenwell, Great Lord of the Cantons of Islington, Kentish Town, Paddington and Knightsbridge, and Knight of the most Heroical Order of the Helmet." Sir Francis Bacon was one of the organizers of these festivities.

<sup>2</sup> A.P. II, 19.

<sup>3</sup> Sir Sidney Lee says this was Shakespeare's well-known comedy, but as the poet was acting this day before the Queen at Greenwich, it is improbable that he was himself present on the occasion: *Life of Shakespeare*, 138.

Moreover, the Ambassador and his train were made Knights of the Helmet, the Prince assuring him that the ancient amity of their two States was so fresh and flourishing that no friendship in the world could be compared to it for love and good will. On the following day the Prince and Templarius set forth together to dine with the Lord Mayor, Sir John Spencer, accompanied by their respective trains, which numbered four score gentlemen very well appointed with great horses and footcloths. Further, every one had a feather in his cap to distinguish of which State he was, the Grayans using white and the Templarians ash-coloured feathers. Their route lay by Chancery Lane and Fleet Street through Cheapside, Cornhill, and Bishopsgate to Crosby Place, where the Lord Mayor resided. Here they were sumptuously entertained with lavish fare and much music, and after some further revelling returned by the same way and in the same order, the streets being thronged with citizens to see them pass.<sup>1</sup>

The reports now known as the Year Books close with Michaelmas Term, 1535 (27 Henry VIII), and the reign of Elizabeth may be said to have inaugurated the modern system of law reporting. In connection with this two Middle Temple names are deserving of special mention. Sir James Dyer, Chief Justice of the Common Pleas, joined the Inn during the time covered by the missing Records, so that the date of his admittance is not known. In 1547 he entered Parliament as Member for Cambridgeshire, and in 1552 was Autumn Reader of his Inn,<sup>2</sup> when he read on the Statute of Wills (34 & 35 Henry VIII, c. 22).<sup>3</sup> The same year he was created a Serjeant-at-Law and gave rings with the motto *Plebs sine Rege ruit*.<sup>4</sup> Shortly after, appointed King's Serjeant and knighted, he was chosen Speaker of the House of Commons on March 2nd, 1553.<sup>5</sup> Raised to the Bench in 1557 as a Justice of the Common Pleas, he was promoted in 1559<sup>6</sup> to be Chief Justice of that Court, in place of Sir Anthony Browne; and held the office till his death on March 24th, 1581.

As a Judge he is said to have lent lustre to the Bench by his high character, learning, and integrity.<sup>7</sup> His later fame rests chiefly on his Reports, which, covering the period 1513-81,

<sup>1</sup> *Gesta Grayorum*; Nichols' *Progresses of Elizabeth*, III, 262-325.

<sup>2</sup> D. 7. <sup>3</sup> O.J. 217.

<sup>4</sup> Foss, V, 481.

<sup>5</sup> Stow's *Annals* (1592 Edit.), 1030.

<sup>6</sup> Between these dates he sat for a time in the Court of Queen's Bench.

<sup>7</sup> See Foss, V, 479-485; also Vaillant's *Life, Reports* (1794), I; D.N.B. XVI, 286.



have been described as models of conciseness and lucidity. Compiled for his own use they were not published till after his death. They first appeared in Law French in 1585. Two further editions were printed in 1592 and 1601, and three more during the seventeenth century. The first English edition was issued in 1794. These Reports are thus noticed by Sir Edward Coke :

“My Lord Dyer’s book containing the fruitful and summary collections of that reverend Father in the Law Sir James Dyer Kt., late Chief Justice of the Court of Common Pleas, for his private use and remembrance and never intended by him in this form to be made public ; but were as he left them imprinted after his decease (anno 25 Reg. Eliz.) the very original whereof written with his own hand, I have.”<sup>1</sup>

The second name is that of Edmund Plowden, described by Coke as “an ancient apprentice of the Law of the Middle Temple of great gravity, knowledge and integrity.” His services to the Inn as Treasurer in connection with the building of the new Hall have already been noticed, but something more must here be said of one who in his day by common consent was esteemed the Society’s most illustrious son. Born of a good family about the year 1518,<sup>2</sup> Plowden studied at Cambridge and, it is believed, also at Oxford before entering upon the work of his life as a lawyer at the Middle Temple. “He was,” says Anthony Wood, “in his youth excessive studious, so that, (we have it by tradition), in three years space he went not once out of the Temple.”<sup>3</sup> Autumn Reader in 1557, he was chosen after the unusually short interval of three years to read again in Lent, 1560, having already acquired a great reputation for learning.<sup>4</sup> A devoted adherent of the old religion, he sat in Parliament during the reign of Queen Mary, and in 1558 was summoned by her to the state and degree of a Serjeant-at-Law. But the Queen died three weeks later before the return to the Writ was made, and in the revulsion of feeling against the adherents of Rome her successor Elizabeth did not renew the summons.<sup>5</sup> Plowden, therefore, was never advanced to that

<sup>1</sup> Coke’s Reports, Pt. X, p. xxxiv.

<sup>2</sup> “Clariss ortus parentibus” (epitaph). According to Plowden’s own statement (Prologue to Commentaries) he was in his twentieth year in the thirtieth of King Henry VIII (see Edit. 1584).

<sup>3</sup> Athenæ Oxonienses (Bliss), I, 504 n.

<sup>4</sup> *Ibid.* ; D. 23, 35.

<sup>5</sup> Foss, V, 347.

degree. Retiring from political life, he thenceforth devoted himself exclusively to the work of his profession. On June 20th, 1561, he was elected Treasurer of the Inn and held the office for six years.<sup>1</sup> So highly was his character esteemed and such was his reputation for learning, that Elizabeth is said to have offered him the Chancellorship if he would change his religion; but he never held judicial office, for that was a price he refused to pay.<sup>2</sup> Plowden's unique reputation as a lawyer rests upon his Reports published under the title of Commentaries, "learnedly and curiously polished," says Coke, "and with all the Professors of the Law of high account."<sup>3</sup> Written in Law French they were first published in 1571, and again with the addition of a second part in 1578. Three further editions followed before the close of the sixteenth century and two more in the seventeenth (1613 and 1684), while four editions appeared in English between 1761 and 1816.<sup>4</sup> The system Plowden adopted in preparing them and the circumstances of their first publication are explained in the Prologue (in French and English) which he prefixed to the work. On commencing the study of the Law he states he made two resolves—first to be present at and follow debates on questions of Law by those of fame and credit in learning, and second to commit what he heard to writing and not to trust to "slipper memorie" "which oft deceiveth his Master." Accordingly he was present at moots and readings and frequented all place in Court and Chancery whereunto he might have access where arguments of law were made, and finding great profit thereby, disposed himself at last to report the arguments and judgments made and given in the King's Courts upon demurrers in law, as those of which he might reap more fruit and perfection in judgment. Thus he continues :

"taking in hand first one case and after another my labour yielded at length a just volume. Which work truly I first began for increase of mine own learning onely, then meaning nothing less, than to set it forth in print; but after I had let some of the Judges and others of great learning and gravity, upon their earnest motion, see the work, great request was made to me to publish it in print."

<sup>1</sup> D. 39.

<sup>2</sup> Records of the Plowden Family (1886), 17, 18.

<sup>3</sup> Reports, Pt. III, p. viii.

<sup>4</sup> Wallace's Reporters, 100, 101.

With the true modesty of great learning he still hesitated to do so, fearing (as he states) that his work, the result of one man's labour, would compare unfavourably with the old reports which he had been credibly informed were anciently the work of four reporters appointed for the purpose and receiving a yearly stipend from the King, who conferred together at the making and collecting of a report and whose number and learning gave their reports great credit.<sup>1</sup> But while he still deliberated upon the matter, there came to him letters sent from all the Judges of both Benches and from the Barons of the Exchequer, of request and solicitation to put the work in print; which, thus encouraged, he accordingly did; having moreover reason to believe that otherwise parts of it were likely to be published in an inaccurate form, through clerks of various Counsel to whom he had lent his manuscript having made unauthorized extracts from it. Thus was the legal literature of England enriched by these "exquisite and elaborate Commentaries."<sup>2</sup>

The contents of the work are best described in Plowden's own words:

"which volume containeth two works thone a book of Entries most sure to follow being more to be trusted to than any other book of Entries;<sup>3</sup> for other books of Entries be but copies of pleadings written out of records, upon which perchance some issue was joined by the parties without intelligence of the Court, or without demurrer or other occasion of discussion of the goodness of the pleading. But in this book there is no record entered but such upon which there is a demurrer in law, or a special verdict conteyning a matter in law, which both were debated by those of the Barre and Bench to the uttermost and in the end allowed, or for the causes shown in this book, disallowed by judgment of the Court, and so most sure to trust unto."<sup>4</sup>

<sup>1</sup> Here Plowden seems to refer to the Reports now known as the Year Books, though the corrupt form in which they have survived hardly agrees with his statement; see Mr. W. C. Bolland's "Year Books," 1921.

<sup>2</sup> Per Sir Ed. Coke Rs. Pt. III, p. viii.

<sup>3</sup> A book of Precedents in pleading; see *e.g.* the Book by "R.A." of Furnival's Inn, pub. 1561.

<sup>4</sup> Prologue to Commentaries (Edit. 1584) dated Temple, October 20th, 1578.

Edmund Plowden died on February 6th, 1584, and following directions given in his will was laid to rest in the Temple Church by the side of his wife, near the east end of the north aisle of the choir. Where at one time there was "a faire toomb with his full pourtraict remaining."<sup>1</sup> The fair tomb still exists, but has been moved to the triforium of the Round and there effectually hidden from public view. Upon it reclines his effigy with folded hands beneath a semi-circular canopy. In style and character, out of keeping with the early English architecture of the choir, its removal in 1842 from its original position was perhaps inevitable, but it seems regrettable that in no part of the church used for public worship does even a mural tablet now commemorate the virtues and learning of this distinguished man. Camden, in his *Latin Annals of England*, notices the death of Edmund Plowden under the year 1584, and thus sums up in felicitous phrase his tribute to the departed :

"In Anglia nemo e vivis excessit memoria dignior quam Edmundus Plowdenus, qui ut in juris Anglici Scientia, de qua scriptis bene meruit, facile primus: ita vitæ integritate inter homines suæ professionis nulli secundus." <sup>2</sup>

Among Temple lawyers of the reign of Elizabeth none played a more conspicuous part than Sir John Popham, alike at the Bar and on the Bench. From Balliol College, Oxford,<sup>3</sup> he was admitted to the Middle Temple Society about the year 1550. There in due course he was called to the Bar, and in 1568 served as Summer Reader.<sup>4</sup> In the fourth Parliament of Elizabeth, summoned to meet in May, 1572, he sat as a Burgess for Bristol.<sup>5</sup> Six years later, in 1578, he was called to the degree of Serjeant-at-Law, but being offered the post of Solicitor to the Queen in 1579, an office inconsistent with a Serjeant's dignity, he took the unusual course of obtaining a patent to reduce him from his status as Serjeant.<sup>6</sup> This restored him to his Inn, where he was elected Treasurer and discharged the duties for eight years.<sup>7</sup> In January, 1580, the Speakership of

<sup>1</sup> *Athenæ Oxoniensis* (Bliss), I, 504 n.

<sup>2</sup> *Annales* (Edit. 1615), 365.

<sup>3</sup> *Athenæ Oxoniensis* (Bliss), II, 20.

<sup>4</sup> D. 81.

<sup>5</sup> *Com. Journ.* I, 95.

<sup>6</sup> *Foss*, VI, 180.

<sup>7</sup> D. 142-199 (1580-88).



the House of Commons became vacant through the death of Sir Robert Bell—also a member of the Middle Temple—and Popham was proposed as his successor. At this time it appears both the Attorney and Solicitor-General were expected to be in attendance upon the House of Lords as legal advisers of the Peers, and objection was taken that Popham could not be elected Speaker as he was not in the House. Accordingly, Mr. Treasurer (who had proposed his election) and others, says the Commons Journal :

“were sent up to demand the restitution of the said Mr. Popham and brought back answer again that their Lordships had resolved he should be sent down the rather because he was a member of this House and this House possessed of him (as one of the citizens for the City of Bristowe) before he was Solicitor or had any place of attendance in the higher House.”

He was therefore brought from the Lords by Mr. Anderson, the Queen's Majesty's Serjeant-at-Law, and Sir Gilbert Gerard, her Highness' Attorney-General, and after a special prayer had been offered up that it might please God to direct them by His Holy Spirit in this unusual dilemma, Mr. Popham was duly elected and placed in the chair.<sup>1</sup> In the following year he was appointed Attorney-General and held the office till, on the death of Sir Christopher Wray eleven years later, he became Chief Justice of the Queen's Bench and received the honour of knighthood.<sup>2</sup> He continued to preside in that Court till his death in 1607.<sup>3</sup> During his twenty-six years of office as Attorney-General and Chief Justice, Popham was much concerned in the many State trials of the time.<sup>4</sup> As prosecutor he seems to have commanded respect by his moderation and fairness, though on the Bench he was reckoned a severe Judge.

<sup>1</sup> Com. Journ. I, 117. On January 21st Speaker Popham made an oration to the House in which, after acknowledging his own infirmities and praying their patience and assistance, he gave the members the following sound advice, to use reverend and discreet speeches, to leave curiosities of form, to speak to the matter and not to spend too much time in unnecessary motions and superfluous arguments : *Ibid.* 118.

<sup>2</sup> Shaw, II, 90.

<sup>3</sup> Foss, VI, 182.

<sup>4</sup> He appeared for the prosecution on the trial of Mary Queen of Scots and received £100 for his fee : Dasent's Speakers of the House of Commons, 139.

Of a riotous and turbulent disposition in youth,<sup>1</sup> he acquired in maturer years a high reputation for the solidity of his learning. Coke has paid tribute to his ready apprehension, profound judgment, and most excellent understanding in the true reasons of the Law, as well as his "admirable experience and knowledge of all business which concerned the Commonwealth."<sup>2</sup> As further evidence of the esteem in which he was held by his contemporaries may be cited the tribute paid to his memory by Lord Ellesmere in the *Post Nati* case shortly after the Chief Justice had been removed by death:

"And here I may not omit the worthy memory of the late grave and reverend Judge Sir John Popham Chief Justice of the King's Bench deceased, a man of great wisdom and of singular learning and judgment in the Law."<sup>3</sup>

One name honoured in the Inner Temple must not be omitted here. Sir Edmund Anderson, Chief Justice of the Common Pleas, joined that Society from Lincoln College, Oxford, in June, 1550. Chosen Reader November 24th, 1566, he read a second time in Lent, 1573.<sup>4</sup> Created a Serjeant-at-Law in Michaelmas Term 1577, he was appointed Queen's Serjeant in 1579, and Chief Justice of the Court of Common Pleas on May 2nd, 1582, when he received the honour of knighthood.<sup>5</sup> He held the office for the long period of twenty-three years, and during that time took part in many State trials including those of Mary Queen of Scots, Secretary Davison, Lord Arundel, the Earl of Essex, Sir Walter Raleigh, and Lord Cobham. On these occasions, like the other Judges of his time, he proved a willing instrument of State policy. In his own Court he showed to more advantage and earned a high reputation for learning and general impartiality, though the vehemence with which he upheld Elizabeth's temporizing policy in matters ecclesiastical made him equally obnoxious to Puritan and Romanist. If too submissive to the royal will where questions of State were concerned, he yet set a notable example of independence in resisting an attempt of Lord Leicester to force a dependant of

<sup>1</sup> Scandal even alleged he had at one time played the part of a knight of the road.

<sup>2</sup> Reports, Pt. VI, 75 (Sir Drew Drury's case).

<sup>3</sup> Howell's State Trials, II, 669.

<sup>4</sup> A.P. I, 160, 176; and see, generally, Foss, VI, 51-55; D.N.B. I, 373-76.

<sup>5</sup> Shaw, II, 81 (May 3rd).

his own into an office in the Court of Common Pleas and, undismayed by Elizabeth's personal intervention on behalf of her favourite's nominee, persisted in his opposition and ultimately defeated the job. Reports of cases decided between the years 1574 and 1603, prepared by the Chief Justice, for his own use, were published in law French in 1664 and 1665. His portrait, showing him wearing the pointed beard fashionable in his day, is in the possession of the Inner Temple Society.

The Temple also contributed two occupants of the Woolsack in Queen Elizabeth's reign. Both belonged to the Inner House. The first of these, Sir Thomas Bromley, was the son of Master George Bromley, a Bencher and Reader of the Inn.<sup>1</sup> The date of his admittance is not known. He is said to have joined from Oxford, though Anthony Wood does not seem to claim him as an alumnus of that University. No details are known of his early years at the Bar. In 1566 he became Recorder of London at the age of thirty-six. David Lloyd praises his great skill in advocacy and states that in five years he never lost a cause.<sup>2</sup> In 1569 he was appointed Solicitor to the Queen, and held the office for ten years. In 1573 he was Treasurer of his Inn and re-elected in the two following years.<sup>3</sup> The ability and discretion he showed in affairs of State won the confidence of Lord Burghley, and after the death of Sir Nicholas Bacon (though still only Solicitor-General) he was given the Great Seal on April 29th, 1579, as Lord Chancellor, and knighted in the following May.<sup>4</sup> The great reputation of Sir Nicholas as Lord Keeper must have added to the difficulties of his successor, but Fuller declares that such was Sir Thomas Bromley's learning and integrity, that under him the Court of Chancery was not sensible of any considerable alteration in the administration of Equity.<sup>5</sup>

He presided over the Commission appointed to try Mary Queen of Scots and succeeded in persuading that unhappy lady to commit the folly of admitting the jurisdiction of the Court. Mr. Foss thinks Sir Thomas "conducted himself with great decency and respect towards the unfortunate prisoner." But after sentence he eagerly co-operated in carrying it into effect lest his mistress should repent of having signed the death

<sup>1</sup> See, generally, Foss, V, 463-466; D.N.B. VI, 400-402.

<sup>2</sup> State Worthies.

<sup>3</sup> A.P. I, 176, 180, 182.

<sup>4</sup> Shaw, II, 79.

<sup>5</sup> Worthies (Edit. 1662); Shropshire, 6.

warrant, the action which has left the darkest stain upon her memory. Perhaps the chief interest of lawyers in his career as a Judge arises from his connection with the famous cause which resulted in the rule in Shelley's case. According to Coke, the rareness and difficulty of that case induced Elizabeth, after it had been argued for several days in the Queen's Bench and no decision reached, to direct Sir Thomas Bromley by a special letter to assemble all the Justices of England before him and upon conference had between themselves touching the matter, to give their resolutions and judgments thereof. This he did in Easter Term, 1581, at his house, York Place, and the opinion which he then personally expressed, though the final decision was not arrived at till after further conferences of the Judges at Serjeant's Inn in Fleet Street, was the one which ultimately prevailed. Coke has described Sir Thomas Bromley as a man "of great and profound knowledge and judgment in the Law," and to Camden he was "*vir juris prudentia insignis*." <sup>1</sup> Stricken by illness soon after the execution of the Queen of Scots, he died on April 12th, 1587, in the fifty-eighth year of his age, and found a last resting-place in Westminster Abbey.

The second holder of the Great Seal who came from the Inner Temple in the reign of Elizabeth was Sir Christopher Hatton.<sup>2</sup> His career is remarkable in many respects and not least so in this, that though he rose to the highest legal office in the kingdom, he was neither a Reader nor a Bencher of his Inn and apparently never even called to the Bar. Descended from a Northamptonshire family more ancient than rich, says Stow,<sup>3</sup> he joined the Inner Temple Society from St. Mary's Hall, Oxford, on May 26th, 1560.<sup>4</sup> Though possessing abilities of a high order he never seems to have made any serious study of law, and Fuller no doubt correctly asserted that at the Inns of Court he rather took a bait than made a meal. Endowed with a handsome person and an engaging manner, he is said to have attracted the attention of Elizabeth by his fine dancing in a Court Masque or revel, and royal favours were showered upon him in quick succession. Taken into the Queen's service as one of her gentlemen Pensioners in 1564, he received a grant in the following year of the Abbey and demesne lands of Sulby.

<sup>1</sup> Annales (1615), 475.

<sup>2</sup> See, generally, Foss, V, 497-510; D.N.B. XXV, 159-162; Fuller's Worthies, 285; and Life by Sir Harry Nicolas.

<sup>3</sup> Kennett, II, 566.

<sup>4</sup> Admittance Book (1547-69), fo. 21.



In 1568 he was appointed Keeper of Eltham Park in Kent and of Home Park in Surrey, and was made a gentleman of the Queen's Privy Chamber. In 1571 he entered the House of Commons, and in the next year was made Captain of the Queen's Guard. Estates and riches now flowed in upon him from the royal bounty, and he dispensed a princely hospitality. In November, 1577, he was knighted by the Queen at Windsor as her Vice-Chamberlain<sup>1</sup> and sworn of the Privy Council. The favours thus received he repaid by an unswerving devotion to the service of his Mistress, not only amid the gallantries and pleasures of the Court, but also in the more serious affairs of Government and the House of Commons. Probably no stranger scene was ever witnessed in Parliament than when Hatton, in moving the humble and hearty thanks of the Commons to the Queen for her message and declarations in December, 1585, invited the assembled members to join with him in a prayer to Almighty God for her preservation, with thankful acknowledgment of His infinite benefits and blessings poured upon the whole realm through the mediation of her Highness' Ministry under Him. In response the whole House falling on their knees most willingly did repeat after him, as he read them out, the words of supplication which he said had been set down by an honest, godly, and learned man.<sup>2</sup>

Sixteen months later, on the death of Sir Thomas Bromley, Hatton was appointed his successor. The event is thus recorded by Stow :

“ The 29th of Aprill (anno 1587) Sir Christopher Hatton Kt. Captaine of the Gard, Vice Chamberlain and one of her Majestie's privy Counsell was made Lorde Chancellor of Englande at Croyden in the Archbishop of Caunterburie's house, where hee received the great Seale in the gallerie there. And the thirde day of May being the first daie of Terme, hee rode from Elie Place in Oldborne to Westminster, there to take his oth, before whom went about the number of 40 his gentlemen in one liverie blew and chaines of gold, divers pensioners and other gentlemen of the Court upon footeclothes, the officers and Clearks of the Chauncerie, and then the Lord Chancellor, having on his right hande the Lorde Treasurer and on his left hand the Earle of Leicester ; after whom rode certaine of the nobilitie, the Judges

<sup>1</sup> Shaw, II, 78.

<sup>2</sup> Parlt. Hist. I, 828.

of the realme, many Knights and lastly a great troupe of their retinue." <sup>1</sup>

In view of Hatton's slight connection with the Law, it is not surprising to find that his elevation to the highest place in it was taken ill by some of the profession.

"The gown men," says Fuller, "grudging hereat conceived his advancement their injury that one not thoroughly bred in the Laws should be preferred to the place. . . . Here upon it was that some sullen Serjeants at the first refused to plead before him until partly by his power but more by his prudence he convinced them of their errors and his abilities."

He had the wisdom to recognize his own legal deficiencies and never sat to try causes without the aid of Masters in Chancery as Assessors. A liberal patron of learning he was chosen, on the death of Lord Leicester in 1588, Chancellor of Oxford University, and in the same year received a further proof of royal favour in the Order of the Garter.<sup>2</sup> His enjoyment of these added honours, however, was brief, for he died on November 20th, 1591, aged fifty-one. He was magnificently buried at St. Paul's on December 16th, his funeral being attended by the Lords of the Council and a great company of mourners.<sup>3</sup> On terms of the closest intimacy with his imperious Mistress he retained her favour to the end, despite transitory quarrels from time to time. The Queen in his last illness, writes Fuller, "bringing as some say cordial broths to him with her own hands."<sup>4</sup> Camden thus sums up the character of Sir Christopher Hatton:

"He was a person pious and charitable, a great patron of learning and good sense and for that reason chosen Chancellor of the University of Oxford. And he was one that managed that weighty post of Lord Chancellor with equity and clearness of principle as to be able to satisfy his conscience and the world too." <sup>5</sup>

The fame of Sir Edward Coke who gave to Plowden such unstinted admiration is also the heritage of the Inner House. His Reports and writings, however, more properly belong to

<sup>1</sup> Annals (Edit. 1592), 1261.

<sup>3</sup> Stow's Annals, 1294.

<sup>2</sup> Shaw, I, 8 (April 23rd).

<sup>4</sup> Worthies, 285.

<sup>5</sup> Kennet, II, 566.

the next reign, and are therefore reserved for later notice. But the following description of the advantages he had enjoyed as a student of the Law under Elizabeth, taken from the Preface to his Commentary upon Littleton,<sup>1</sup> is a striking tribute to the legal attainments of the age and the eminence of the lawyers it produced.

“Of worldly blessings I account it not the least, that in the beginning of my study of the Laws of this Realm the Courts of Justice both Equity and Law were furnished with men of excellent judgment, gravity, and wisdom. As in the Chancery Sir Nicholas Bacon [of Gray’s Inn] and after him Sir Thomas Bromley [of the Inner Temple]: In the Exchequer Chamber the Lord Burghley, Lord High Treasurer of England, and Sir Walter Mildmay, Chancellor of the Exchequer [both of Gray’s Inn]: In the King’s Bench Sir Christopher Wray [of Lincoln’s Inn] and after him, Sir John Popham [of the Middle Temple]: In the Common Pleas, Sir James Dyer [of the Middle Temple] and after him, Sir Edmund Anderson [of the Inner Temple]: In the Exchequer Sir Edward Saunders [of the Middle Temple], after him Sir John Jeffrey [of Gray’s Inn] and after him Sir Roger Manwood [of the Inner Temple]: Men famous among many others in their several places, and flourished and were all honoured and preferred by that thrice noble and virtuous Queen Elizabeth, of ever blessed memory.

“Of these reverend Judges, and others their associates, I must ingenuously confess that in her reign I learnt many things which in these institutes I have published: and of this Queen I may say that as the rose is the Queen of flowers, and smelleth more sweetly when it is plucked from the branch, so I may say and justify that she by just desert was the Queen of Queens, and of Kings also, for religion, piety, magnanimity and justice; who now by remembrance thereof, since Almighty God gathered her to himself, is of greater honour and renown than when she was living in this world. You cannot question what rose I mean, for take the red or the white, she was not only by royal descent and inherent birthright, but by roseal beauty also, heir to both.”

<sup>1</sup> Published 1628. See pp. xxix, xxx.

## CHAPTER VI

### THE TEMPLE UNDER KING JAMES I

ELIZABETH's long and eventful reign closed with her death at Richmond Palace in the seventieth year of her age. In the list of Readers of the Middle Temple appended to the Brerewood MS. the event is thus recorded: "This Queen of everlasting memory Elizabeth the Mirror of Kings deceased the 24th day of March 1602, having reigned 44 years completed and four months." In the following May her successor King James made his State entry into London. The only reference to the accession of the Stuart dynasty in the Records of the Middle Temple is the following heading to an admittance to the Inn: "Vicesimo Nono die Aprilis Anno Regni Domini nostri Jacobi Dei gratia Anglie Francie et Hibernie Regis Fidei Defensoris, etc. primo et Scotie XXXVI<sup>to</sup>." <sup>1</sup>

The new reign did not open auspiciously for the people of London, for this year the Plague held the City in its grip, and a Middle Temple parliament which met on July 8th resolved as follows:

"Yt ys ordered at this parliament that ther shalbe no Sommer Readinge this yeare And that Commons shall breke upp one Satterdaye after the ende of this present Trinitie Tearme And further that all gentlemen of this howse, clarks, and serving men shall departe out of this howse and not be suffered to continue in their chambers untill such tyme that yt shall please God to cease the sicknes." <sup>2</sup>

The next parliament of the Inn was held at Winchester <sup>3</sup> on November 23rd, and though before February 10th following

<sup>1</sup> D. 321. In the Minutes of the Inner Temple no notice is taken of the demise of the Crown till the seventh parliament after the accession of King James, when a record is dated by the regnal year.

<sup>2</sup> D. 323.

<sup>3</sup> *Ibid.*



the Benchers had returned to the Temple, a parliament of that date decided against holding the Lent Reading: "Yt ys agreed at this parliament that ther shalbe no Readinge in Lent nexte and to be no vacacion notwithstandinge suche Utter barristers and gentlemen of this howse lyinge within the howse or in the towne to keepe Commons of the howse"—and against this entry there is a marginal note, "By reson of ye daunger of ye plague."<sup>1</sup> The Inner Temple Society was also dispersed by this visitation. Commons there broke up on July 10th, the under-cook, the panierman, two turnbroaches, the Clerk of the Church, and a watchman being left in charge of the Inn. The next parliament of that Society was not held till January 23rd, when it was resolved to have no Lent Reading, for the watchman had died of the plague and the houses of the panierman and one of the turnbroaches had become infected.<sup>2</sup> The danger, however, seems to have passed by April 29th, for the Inner Temple on that date chose a Summer Reader,<sup>3</sup> and the Middle Temple did likewise on May 18th. At this parliament of the Middle Temple it was also resolved that in future two parliaments of the Inn should be held in every Term.<sup>4</sup>

The Summer Reader of the Middle Temple this year (1604) was Master Thomas Stephens. He admitted specially and *gratis* during his Reading, besides Gray fifth Baron Chandoy's of Sudeley and William Fowler, Esq., Master of Requests and Secretary to the Queen, two Secretaries and two Ushers of the Chancellor (Lord Ellesmere), and a Chamberlain of the Exchequer.<sup>5</sup> This prodigal bestowal of the honour of membership did not meet with the approval of the Bench, and on October 26th following they enacted:

"from henceforth no Reader of this House shall in the tyme of his Readinge admitt any into this fellowship but for the usuall and accustomed fines nowe and heretofore paid, videlicet fyve marks (£3 6s. 8d.) for every generall admission and fyve pounds for every speciall admission; Except noblemen, knights or gentlemen of accompt, that shall desire to be admytted into this Fellowship and shall not mynde to continew heere in Comons: Every Reader shall have libertie to admytt these,

<sup>1</sup> D. 324.

<sup>2</sup> A.P. II, 49.

<sup>3</sup> *Ibid.* 50.

<sup>4</sup> D. 326. The first to be held on the first Friday of every term unless the term began on a Friday, in which case on the Friday after.

<sup>5</sup> D. 328.

takinge of them such fines as to the saide Reader shall seeme meete and convenient.”<sup>1</sup>

Ten years later this enactment was varied as follows :

“Every Reader of this howse in the tyme of his Reading shall have one admittance allowed him And yf any such Reader shall excede to admytt anye more, that then the sayde Reader ys to awnswere all such fine or fines to the howse as formerly hath bynn used and accustomed to be payde for anye such admittance except noblemen knights or men of greate worth which every Reader shall have full power to admytt into this Fellowship in the tyme of his Readinge.”<sup>2</sup>

At the Inner Temple also it was found necessary to legislate upon this matter, as is shown by the record of an order made there on October 13th, 1616. The occasion seems to have been the admission *gratis* by the Summer Reader of a gentleman whom the Bench for some undisclosed reason deemed unworthy of that honour. The order was as follows :

“Whereas Mr. Reader in his last Reading did specially admitt Sir Thomas Thynne Kt. into the Society of this house ye same admittance is by this parliament ratified Houbeit it is now enacted and provided by this parliament that noe Reader shall hereafter have any authority to admitt into this house *gratis* any man under ye degree of a Baron in blood or an Earle’s son or ye eldest son of a Baron in blood and all admittances otherwise made shalbe holden void.”<sup>3</sup>

The most important event in the history of the two Temple Societies during this reign was their acquisition of a permanent interest in the premises they had so long occupied. Their anomalous position, if mere tenants by the year of the Temple, has already been noticed. During the reign of Queen Elizabeth, notwithstanding the expense their members had incurred in the erection of new buildings, they seem to have been content to let matters rest where they were and to have taken no steps to obtain a more secure interest in their holdings. No doubt

<sup>1</sup> D. 329.

<sup>2</sup> C. 77 (October 28th, 1614).

<sup>3</sup> A.P. II, 121.

they relied on that royal favour which Elizabeth, like her Tudor predecessors, always extended to the Inns of Court. Early in the reign of her successor, however, they became alive to the insecurity of their position. The Minutes of neither Society throw any light upon the circumstances which induced the Benchers to approach the Crown in this matter, and the only information upon the subject now available comes from the Petyt Manuscript to which reference has already been made in connection with the origin of the Temple Societies.<sup>1</sup> Internal evidence shows this Manuscript to have been compiled in the early part of the reign of King Charles I, and however unconvincing its testimony may be in regard to events alleged to have happened some centuries earlier, there seems no reason to doubt that its author was correctly informed as to circumstances occurring in the year 1608. After describing the suppression in England of the Order of the Hospital of St. John and the seizure of their property by King Henry VIII, his account proceeds as follows : <sup>2</sup>

“ Touching these Houses or Innes of Court whereof wee now treat, the same remained in the King’s hands dureinge all his lifetime and from him descended to Kinge Edward VI, from him to Queene Mary, from her to Queene Elizabeth and from her againe to our late Sovraigne Lord King James. Dureing all which time the professors and students of the Comon Lawes held the actuall possession thereof as tenants onely att will and by permission of those severall Princes. And albeit they had noe other estate therein yet they beautified and enlarged their severall houses with diverse goodly and faire buildings as if they had beene absolute owners or proprietors thereof and never sought to gaine any firme or sure estate therein, which certainly proceeded from the confidence they had of the Princes’ favour ; for I can hardly bee drawne to believe that soe many grave, judicious and learned men would all bee overseene in a matter of soe greate weight and moment unto them. But they were roused from this security about the beginninge of the Raigne of his late Ma<sup>tie</sup> King James. At what time the weaknes of their title was discovered unto some who, as is constantly affirmed, meant to make a benefitt thereof by begginge of the

<sup>1</sup> Petyt MSS. No. 538, Vol. XVII, 411.

<sup>2</sup> *Ibid.* 409.

same of his said Mat<sup>ie</sup>. But this designe was soone crossed by the humble suite made by both Societies unto his Mat<sup>ie</sup> whoe was thereupon pleased by his highnes letters patents under the Greate Seale of England bearinge date at Westminster the tenth day of August in the 6<sup>th</sup> yeare of his Mat<sup>ie</sup>'s Raigne of England to grante the same in Fee farme unto the then Benchers of both Houses and their heires for ever."

The actual date of the letters patent the origin of which is thus described was, however, the 13<sup>th</sup> and not the 10<sup>th</sup> of August.

Under this grant, as will be noticed later, provision was made for the payment of an annual pension to the principal clergyman of the Temple Church called in the letters patent "the Master Keeper or Rector (*Magister Custos sive Rector*) of our House and Church of the New Temple London," an unfortunate and misleading description which afterwards led to pretensions being advanced that brought the holder of the office into serious conflict with the Benchers of the Inns. The words appear to have been taken from the letters patent by which the Crown appointed to the office under Queen Elizabeth.<sup>1</sup> In the time of the Templars the chief priest attached to the Church was called the Prior.<sup>2</sup> There are two references to the King's grant in the Records of the Inner Temple for November 3<sup>rd</sup> and 13<sup>th</sup>, 1608, one of which refers to it as "the purchase of the inheritaunce of the house," and the other as "the purchase of the Fee simple of the house."<sup>3</sup> In the Minutes of the Middle Temple the transaction is first mentioned on June 30<sup>th</sup>, 1609, in connection with the stipend it secured for the Master.<sup>4</sup> As there must have been some conferences between the Benchers of the two Inns before King James was approached on the subject, it is surprising to find no allusion to this in the books of either Society.

The two chief Benchers of the Inns at this time were Sir Julius Cæsar (of the Inner Temple), Chancellor and Under Treasurer of the Royal Exchequer,<sup>5</sup> and Sir Henry Montagu

<sup>1</sup> See Petyt MS. cited *supra*.

<sup>2</sup> Camden Society, LXV, Knights Hospitallers, p. 202. Former clergy described as "Unus Prior et XIII Capellani seculares."

<sup>3</sup> A.P. II, 75, 76.

<sup>4</sup> D. 388.

<sup>5</sup> In the letters patent described as Julius Cæsar *alias* Adelmare. He had ceased to use his last name, making Cæsar his surname; later Master of the Rolls.



(of the Middle Temple), Recorder of London.<sup>1</sup> Their names, therefore, come first of the fifty-two grantees (twenty-six from either Inn) named in the letters patent. Next after them come the names of the two Treasurers of the year, William Fowse, Esq., of the Inner Temple, and Richard Daston, Esq., of the Middle Temple.

The grant which is in Latin<sup>2</sup> commences with a recital by the Crown as grantor, expressed in somewhat flamboyant language, which almost suggests the King's own hand, and translated reads as follows :

“ Whereas our Realm of England having been for so many ages exceedingly prosperous in the arts of peace and war is sensible that a great part of its good fortune (*felicitatis*) is justly owing to the ancient and peculiar (*propriis*) laws of the Realm tried through a long series of ages and approved by constant experience and that the Inns of the Inner and Middle Temple London being two out of those four colleges the most celebrated of all Europe as always abounding with persons devoted to the study of the aforesaid laws and experienced therein, have been by the free bounty of our progenitors Kings of England, for a long time dedicated to the use of the students and professors of the said laws to which as the best seminaries of learning and education very many young men eminent alike for rank of family and for their endowments of mind and body have daily resorted from all parts of this Realm and from which many men in our own times as well as in the times of our progenitors have been advanced by reason of their very great merits to discharge the public and arduous functions as well of the State as of Justice in which they have exhibited great examples of prudence and integrity to the no small honour of the said profession and adornment of the Realm and good of the whole Commonwealth, as is to us abundantly manifest.”

The grant then proceeds to convey the whole property of the New Temple to the grantees as representing the two Societies,

<sup>1</sup> Later Chief Justice, Lord Treasurer, and Earl of Manchester.

<sup>2</sup> The original Latin with an English translation is set out in Master Worsley's Book (Ingpen), Appendix I, 231. The grant is also printed in English in the Report of the Commission on the Inns of Court, 1855.

but makes no attempt to indicate what portions of the property were respectively occupied by the two Inns or to allocate to them their respective holdings : that allocation came much later by a voluntary agreement between the two Houses.<sup>1</sup>

“ Know ye therefore that we being desirous of perpetuating as far as in us lies the happy condition (*felixm statum*) of this Realm of England flourishing for so many ages by the administration (*ministerio*) of the said laws and desiring not so much a mere continuance of the ancient renown of the said Inns as compassing an accession of new honour and that we may leave [on record] to all posterity a testimony of our good will and munificence to the profession and professors of the said laws have of our special grace certain knowledge and mere motion given and granted and by these presents for ourselves our heirs and successors do give and grant to our well beloved and faithful [here follow the names of the grantees] our aforesaid Inns and capital messuages and buildings with the appurtenances called or known by the name or names of the Inner and the Middle Temple or New Temple London or any of them . . . and all our messuages halls houses edifices cloisters buildings chambers gardens courts lanes passages yards ways paths void grounds walls pavements and lands ground and soil whatsoever being within the site precincts compass and circuit of the said places . . . and all that bridge called the Temple Bridge Also all that rent or annual payment of £10 late parcel of the possessions and revenues of the said late Hospital of St. John of Jerusalem and issuing or paid out of the tenements aforesaid called or known by the name of the Inner Temple, otherwise called the Inner part of the Temple London or out of the Treasure of the same society of the Inner Temple or by the Treasurer of the same society to be paid yearly And one other annual rent or annual payment of £10 late parcel of the possessions and revenues of the said late Hospital of Saint John of Jerusalem and issuing or paid out of the tenements aforesaid called or known by the name of the Middle Temple London or out of the Treasure of the same society of the Middle Temple London or by the Treasurer

<sup>1</sup> In 1732 ; Master Worsley's Book (Ingpen), 247.

of the same society to be paid yearly And the reversion or reversions of all and singular the premises and of every part thereof."

Having conveyed to the grantees the property of the New Temple generally, and the rents hitherto paid in respect thereof, the grant then goes on to deal specifically with the Temple Church as follows :

" And all that church edifices and buildings of the church used for or dedicated to divine worship prayers and celebrating the sacraments and sacramentals commonly called the Temple Church situate within the site circuit and precincts of the aforesaid Inns . . . and all that Chancel and Nave and Belfry of the same church with the bells being in the same (*campanis in eodem existentibus*) and the churchyard cloisters and all the chapels chambers and buildings to the same church adjacent or erected and the reversion or reversions of all and singular the premises and of every part thereof."

Next follows the grant of ancient jurisdictions and franchises :

" We give also and grant . . . to the aforesaid [grantees] their heirs and assigns within the aforesaid messuages lands tenements and other premises by these presents before granted and within every part thereof such Leets View of Frankpledge Assize and Assay of Bread Wine and Ale and all other jurisdictions Franchises Liberties Privileges Immunities and Exemptions such and which and as fully freely and entirely and in as ample a manner and form as the late Priors and Brothers of the said late Priory of Saint John of Jerusalem in England or any of them or any other or others having or occupying the aforesaid messuages and other the premises or any part thereof at any time had held or enjoyed or ought to have held or enjoyed in the aforesaid messuages lands and tenements above by these presents before granted or in any part thereof by reason or colour of any charter of gift grant or confirmation or of any letters patent by us or by any of our Progenitors heretofore had made or confirmed, or by reason or colour of any lawful prescription use or custom theretofore had or used or by or in any other legal

manner right or title and as fully freely and entirely as all and singular the same in our hands now are or should or might be."

The grant next reserves to the Crown the appointment to the Mastership of the Temple :

"Except nevertheless wholly to ourselves and our heirs and successors the reservation nomination donation and free disposition to the office of Master or Keeper of our House and Church of the New Temple London aforesaid and of the Rectory of the aforesaid Church and the ordination and appointment of the same Master Keeper or Rector of the House and Church aforesaid as often as, and whenever, in future it shall be vacant."

The conditions of the grant and, in particular, the new rents to be paid, the house and emoluments to be provided for the Master of the Temple, and the upkeep of the church fabric, are next dealt with :

"To have and to hold the aforesaid Inns Messuages Houses edifices chambers Gardens &c. by these presents before granted to the aforesaid [grantees] their heirs and assigns to the proper behoof and use of them the said [grantees] their heirs and assigns which said Inns Messuages Houses edifices chambers and other the premises we will and by these presents for ourselves our heirs and successors strictly command shall serve for the entertainment and education of the students and professors of the laws aforesaid residing in the same Inns for ever Yielding annually to us our heirs and successors for the aforesaid premises called or known by the name of the Inner Temple with the appurtenances £10 of lawful money of England And for the premises called by the name of the Middle Temple other £10 of like money of England at the receipt of our Exchequer at the Feasts of St. Michael the Archangel and the Annunciation of the Blessed Virgin Mary to be paid in equal portions and to hold all and singular the premises of us our heirs and successors as of our Manor of East Greenwich <sup>1</sup> in free and common socage

<sup>1</sup> *I.e.* without burden of any service except fealty only. See Master Worsley's Book (Ingpen), 25 note.



by fealty only and not in chief for all services and demands of us our heirs and successors therefor to be paid or made And the said [grantees] for themselves their heirs and assigns covenant and undertake to and with us our heirs and successors that they the aforesaid [grantees] their heirs and assigns will from time to time set apart and appoint a convenient mansion and house near the aforesaid church for the aforesaid Master or Keeper of the House and Church aforesaid and his successors for the time being for his residence and habitation so long as he shall remain the Master or Keeper of the said House or Church and will maintain the same at their own proper costs and charges for ever (*imperpetuum*) And also will from time to time pay or cause to be paid one annuity or yearly payment of £17 6s. 8d. of lawful money of England to the said Master or Keeper of the said House and Church aforesaid and to his successors in part maintenance of him the said Master and Keeper and his successors for the time being yearly at the Feast of St. Michael the Archangel and of the Annunciation of the Blessed Virgin Mary for ever in equal portions over and above £20 yearly rent or payment to be made by us our heirs and successors to the before mentioned Master or Keeper and his successors for the time being yearly at the Feasts aforesaid And moreover that they will well and sufficiently maintain and keep up the aforesaid Church Chancel and Belfry of the same and all other things to the same church in any manner appertaining of and in all respects and in all things at their own proper costs for ever for the celebration of divine service and the sacraments and sacramentals and other the ministerial offices and ecclesiastical rites whatsoever henceforth for ever as is befitting and henceforth accustomed.”

Then follow certain provisions to secure that these letters patent shall be valid, good, sufficient, and effectual in law, after which the grant concludes thus :

“ We will also and by these presents grant to the before mentioned [grantees] that they do and shall have these our letters patent under our Great Seal of England duly made and sealed without fine or fee great or small to be for us into our

Hanaper or elsewhere for our use therefor in any manner rendered paid or made etc.

"In witness whereof we have caused these our letters to be made patent Witness ourselves at Westminster this 13<sup>th</sup> day of August in the sixth year of our reign in England France and Ireland and in Scotland the forty second."

With the exception of the new fee farm rents (which in amount were the same as the rents formerly paid to the Crown) and the sum which the grantees undertook to contribute annually towards the maintenance of the Master of the Temple no payment in money was imposed on the Inns by the grant thus made to them. The two Societies, however, as an expression of their gratitude resolved to make a presentation to King James. The Minutes of neither Inn contain details as to this, but it is no doubt the matter referred to in a Minute of the Inner Temple, dated November 3rd, 1608, which mentions a sum of £300 lent by divers Masters of the Bench "towards the purchase of the inheritance of the house."<sup>1</sup> The word "purchase" is peculiar and certainly suggestive of more than a voluntary offering. King James was a willing recipient of valuable gifts from his subjects. The new Serjeants were each expected to present his Majesty with £600.<sup>2</sup> Whether the Inns were informed before the grant was made, that they, too, were expected to be thankful in a practical way, must remain, in the absence of any direct evidence upon the point, matter of conjecture. A gift to the King in the circumstances would certainly have been in keeping with the habits of the age. If, however, any such acknowledgment had been actually stipulated for, so acquisitive a Monarch would hardly have made the grant, months before the acknowledgment was received, as from the only account of the transaction now available, he appears to have done. That account, which comes from the Petyt MS., is as follows :

"In parte of thankfulness of which princely donation the said twoe fellowshipes conjoyneinge in one did thereupon at their mutuall charges cause to bee made a stately cup of pure gold weighinge two hundred ounces and an halfe of the value of one thousand markes or there aboutes. The which in all

<sup>1</sup> A.P. II, 75, 76.

<sup>2</sup> Whitelock, "Liber Famelicus," Camden Society, No. 70, p. 44.

humblenes was presented to his excellent Mat<sup>ie</sup> att his Court att Whitehall in the said 6<sup>th</sup> yeare of his Mat<sup>ies</sup> raigne over the Realme of England for a New Yeares guifte by the hands of the said Sir Henry Montague (in the tyme of this edition Baron Montagu, Viscount Mandevil and Earle of Manchester) <sup>1</sup> and of Richard Daston Esq. [Treasurer of the Middle Temple] and other eminent persons of both those hon<sup>ble</sup> Societies. The which it pleased his Mat<sup>ie</sup> most graciously to accept and receive. The proporcon of which cup is here portraied, upon the one side whereof is curiously engraven the proporcon of a Church or Temple beautified with Turretts and Pinnackles and on the other side is figured an altar whereon is couched the simulance of brands or sticks of wood feedinge an holy fire, the flames propper and over those flames theis words engraven *Nil nisi vota*. The cover of this rich cup of gold is in the upper part thereof adorned with a Fabric fashioned like a Pyramide whereon standeth the statue of a military person leaninge with the left hand upon a Roman fashioned shield or target. The which cup his excellent Mat<sup>ie</sup> (whilst hee lived) esteemed for one of his royalist and most richest jewell[s].” <sup>2</sup>

The Minutes of the Middle Temple Society contain no reference to this cup, and there appear to be no accounts of that Inn now extant for this period. In those of the Inner Temple, however, for the year 1607–8 the cost to that House is entered thus: “Item to the King’s gouldsmith for halfe the cuppe which is to be sent to his Mat<sup>ie</sup>. £333 6s. 8d.” <sup>3</sup> The whole cost to both Inns was therefore £666 13s. 4d.<sup>4</sup> At the Inner Temple the outlay was eventually met by a double pension assessment. This cup had an unfortunate history, for it was pawned in Holland by Charles I at the beginning of his reign when he failed to obtain supplies from his first Parliament, never redeemed, and has not since been traced.<sup>5</sup>

<sup>1</sup> Sir H. Montague was created Earl of Manchester, 1626. This MS. was therefore written after that date and before his death, November 7th, 1642. Elsewhere the MS. refers to Favine’s Theatre of Honour as “lately translated into English.” That work was published in English at London, 1623.

<sup>2</sup> Petyt MSS. No. 538, Vol. XVII, 409; I.T.R. II, Intro. xviii, xix.

<sup>3</sup> Gen. Acct. Bk. I, 31; I.T.R. II, 38.

<sup>4</sup> Estimated by Mr. Inderwick in 1898 as equal to £3500 of modern money. I.T.R. II, Intro. xix.

<sup>5</sup> *Ibid.*

Another and smaller cup of gold of the value of £14 6s. was presented to the King by the two Societies in a velvet case, in the following year. The Inner Temple's share of this gift appears in their accounts for 1608-9 as follows: "Item paid to the goldsmith for makinge a cup of golde which was given to the Kinge with a velvet case; the one halfe £7 3s." <sup>1</sup>

For the safe keeping of the royal letters patent an iron-bound chest was made at the joint cost of the two Societies, £7 12s. 4d. being contributed by each Inn; and in this chest the grant of King James is still preserved.<sup>2</sup>

On two occasions in this reign the Inns of Court took part in royal festivities at Whitehall. The first of these was the marriage of the King's daughter, the Lady Elizabeth, to Frederic V, Count Palatine of the Rhine. This union was highly popular with the nation on account of the bridegroom's connection with the Protestant cause in Germany, and the nuptials were celebrated with great pomp on Sunday, February 14th (Valentine's Day), 1612. The bridal procession of this "lovely Princess," later known to fame as the Winter Queen of Bohemia, has been thus described:

"Her vestments were white the emblem of innocency; her hair dishevelled hanging down her back at length an ornament of virginity; a crown of pure gold upon her head the cognizance of majestie being all over beset with precious gems, shining like a constellation; her train supported by twelve young ladies in white garments so adorned with jewels that her passage looked like a milky way." <sup>3</sup>

The Inns of Court had resolved to tender their homage to the bridal pair as Masquers, and in furtherance of this design Lincoln's Inn and the Middle Temple combined for one display, while Gray's Inn and the Inner Temple did so for another. The words of the Masque to be presented by the former Houses were composed by George Chapman, best known as the translator of Homer into English verse; while, for scenic effects and decorative designing, the artistic talent of no less a person than Inigo Jones was secured.<sup>4</sup>

<sup>1</sup> Gen. Acct. Bk. I, 43.

<sup>2</sup> *Ibid.* 156. This charge seems to include some other unspecified work.

<sup>3</sup> Wilson's Hist. of Gt. Britain (Edit. 1653), 64; cf. State Papers Dom. Jas. I, LXXII (February 22nd, 1612).

<sup>4</sup> The Middle Templars acknowledged his services by making him a member of the Inn: C. 48.



The performance took place at Whitehall on the evening of Monday, February 15th. The management and direction of the Masque were entrusted to two members of the Middle Temple Society, Sir Edward Phelips, then Master of the Rolls,<sup>1</sup> and Richard Martin, whose pungent wit had provoked the assault already described which occasioned the expulsion of Sir John Davies from the Inn.<sup>2</sup> The details which follow come from a letter of John Chamberlain to Sir Dudley Carleton, dated February 18th, 1612, and Chapman's own description of the performance.<sup>3</sup>

"On Monday night," writes Chamberlain, "was the Middle Temple and Lincoln's Ynne Mask presented in the hall at Court. Yt went from the Rolles all up fleet street and the strand and made such a gallant and glorious shew that yt is highly commended. They had forty gentlemen of best choise out of both houses rode before them in theyre best array upon the King's horses and the twelve Maskers with theyre torch bearers and pages rode likewise upon horses exceedingly well trapped and furnished besides a dousen little boys dressed like babones that served for an anti-mask (and they say performed yt exceedingly well when they came to yt) And three open chariots drawne with fowre horses a peece that caried theyre musicians and other personages that had parts to speak All which together with theyre trumpettters and other attendants were so well set out that yt is generally held for the best show that hath ben seen many a day."

Chapman describes the procession to Whitehall with more elaboration, as some of his details will shew. The boys in the anti-Masque of Baboons, he says, were attired "like fantastically travellers in Neopolitan sutes and great ruffles." They were mounted on asses and dwarf palfreys, and cast "cockle-demois about in courtesie by way of lardges," while torch-bearers in Indian garb on either hand of them lit their state as ridiculously

<sup>1</sup> "Never a man in England was more excellent in Chancery . . . of excellent dexterity, diligent early in the morning, ready to do justice" (per Coke): see Foss, VI, 178.

<sup>2</sup> *Ante*, p. 215.

<sup>3</sup> State Papers Dom. Jas. I, 72, No. 30; Nichols' Progresses of Jas. I, Vol. II, 566-584.

as the rest nobly. The chariots of the musicians were "adorned with great maske heads, festones, scrowles and antick leaves every part inricht with silver and golde," and the musicians themselves were arrayed to represent Virginian Priests of the Sun. The Chief Masquers also were in Indian habits, and wore cloth of silver embroidered with golden suns. "About their neckes were ruffles of feathers spangled with pearles and silver," and on their heads "feathers compast in coronets," while suns of gold plate sprinkled with pearl adorned their brows. Their buskins were embroidered with gold interlaced with rows of feathers, "Indian-like." Their horses also (each attended by two Moores attired like Indian slaves) had their caparisons "enchac't with sunnes of gold and ornamental jewells." The last chariot, in which sat those who were to take the speaking parts, was the most resplendent, "its whole frame filled with moulded worke mixed all with paintings and glittering scarffings of silver," while over it, supported by antique figures, was a canopy of gold. On their arrival at Whitehall,

"the King," writes Chamberlain, "stoode in the gallerie to behold them and made them ride round about the tilt yard and then they were receaved into St. James's Park and went all along the galleries into the hall where themselves and theyre devises (which I say were excellent) made such a glittering shew that the King and all the companie were exceedingly pleased."

The Masque was performed with great spirit. It included dialogue, songs, music, and dancing, in which at the end the ladies of the Court joined. The King was specially pleased with the dancing, says Chamberlain,

"which was beyond all that hath yet ben." He "made the Maskers kisse his hand at parting and gave them many thankes saying he never saw so many proper men together and himself accompanied them at the banket and took care yt shold be well ordered And speakes much of them behind theyre backs and stroket the Master of the rolles and Dick Martin who were the cheife doers and undertakers."

The expenditure on this Masque, borne equally by Lincoln's Inn and the Middle Temple, is said to have been nearly £1100.

To meet the outlay the Middle Temple had recourse to a special taxation : Benchers paying 50s. ; Utter Barristers, 30s. ; Attorneys or practisers, 20s. ; and other gentlemen, 15s.<sup>1</sup>

The Masque of the other Inns was written by Francis Beaumont, the dramatist, a member of the Inner Temple.<sup>2</sup> They were not so fortunate with their performance.

“ On tuesday yt came to Grayes Inne and the Inner Temple’s turne to come with theyre Mask whereof Sir Francis Bacon was the cheife contriver and because the former came on horseback and open chariots they made choise to come by water from Winchester Place in Southwark which suted well enough with theyre devise which was the mariage of the river Thames to the Rhine.”

In fact, the procession was marshalled at Ely House, in Holborn, to which the Benchers of the Inner Temple were escorted with torches to see the array. Thence the Masquers proceeded to London Bridge, and so crossed to Southwark, from which they took boat at 7 p.m.

“ Theyre shew by water,” continues Chamberlain, “ was very gallant by reason of infinite store of lights very curiously set and placed and many boats and barges with devises of light and lampes with three peales of ordinance, one at theyre taking water another in the Temple garden and the last at theyre landing ; which passage by water cost them better then £300.”

It seems that the King lent his royal barge with its rich furnishings of State for the gentlemen Masquers, and that the whole convoy of barges and galleys was led by two Admirals.

“ They were receaved at the privie stayres and great expectation theyre was that they shold every way exceed theyre competitors that went before them both in devise, daintines of apparell, and above all in dauncing (wherin they are held excellent) and esteemed far the properer men ; but by what yll

<sup>1</sup> C. 54. The actual cost is given as £1086 8s. 11d. : see Pearce, *Inns of Court*, 100.

<sup>2</sup> Admitted November 3rd, 1600 : A.P. II, 38. Son of Sir Francis Beaumont, a Justice of the Common Pleas and a former Bencher and Reader of the Inn.

planet yt fell out I know not they came home as they went without dooing anything; the reason wherof I cannot yet learne thoroughly but only that the hall was so full that yt was not possible to avoyde yt or mak roome for them; besides that most of the ladies were in the galleries to see them land and could not get in: but the worst of all was that the King was so wearied and sleepe with sitting up almost two whole nights before, that he had no edge to yt, wherupon Sir Francis Bacon adventured to intreat his majestie that by this disgrace he wold not as yt were bury them quick and I heare the King shold aunswere that then they must burie him quick for he could last no longer; but withall gave them very goode wordes and appointed them to come again on Saturday."

With which solatium they had to rest content, but none the less departed "much discouraged and out of countenance." However, returning on the day the King had given them, they were received with special honour, the Lord Privy Seal <sup>1</sup> himself conducting them to their places. Moreover, they were allowed the privilege of performing their Masque in the new Banqueting Room instead of the hall, and did it with great *éclat*.<sup>2</sup>

From a further letter to Carleton written at this time by Sir Edward Phelips, and dated London, February 25th, it appears that on the Sunday following this entertainment King James honoured all the Masquers of the four Inns by inviting them to a banquet at Whitehall. The passage is as follows:

"On Sunday night after the Kinge feasted the Innes of Courte with a great deal of joye and comfort, himself sitting at the same boorde; soe that I may well write you that never Kinge was more gloriously and royally served by them, nor they more honoured or graced by a souvraigne."<sup>3</sup>

Nine years later, when disaster had overtaken the bridal pair, and driven from their throne in Bohemia by Ferdinand II

<sup>1</sup> Earl of Northampton.

<sup>2</sup> See this Masque in Beaumont and Fletcher's Works (Edit. 1812), XIV, 325-343. It was dedicated as follows: "To the worthy Sir Francis Bacon his Majesties Solicitor-General and the grave and learned Bench of the anciently allied Houses of Gray's Inn and the Inner Temple, the Inner Temple and Gray's Inn." The repetition of the names negating any suggestion of precedence in either.

<sup>3</sup> State Papers Dom. LXXII, No. 46.



and his Catholic allies, they could not even find a refuge in their own Palatinate dominions, overrun by Spanish troops, gentlemen of the Inns of Court once more proclaimed their devotion to the Lady Elizabeth. This time the scene was in the Middle Temple. It was Christmas time, and one of the younger members of the Inn, holding the Christmas office of Lieutenant of the Temple, had invited

"thirty of the civillest and best fashioned gentlemen of the House" to sup with him; "And being at supper," writes a contemporary authority, "took a cup of wine in one hand and held his drawn sword in the other and so began a health to the distressed Lady Elizabeth and having drunk kissed his sword and laying his hand upon it took an oth to live and die in her service, then delivered the cup and sword to the next and so the health and ceremonie went round." <sup>1</sup>

Whether the distressed lady derived any benefit from this avowal of loyalty to her cause, history does not relate, but the writer states that King James, whose inglorious prudence prompted him to leave his daughter to her fate, was "highly displeased" at the incident.<sup>2</sup>

The second courtly function in which the Inns took part is referred to in the Records as the "Creation of the Prince." Henry, the King's eldest son, a youth of high character and greatly beloved, had died in the year 1612 at the early age of nineteen, "wept by all the Muses and mourned by all the brave."<sup>3</sup> His untimely end opened the succession to the throne to his younger brother, Prince Charles, and four years later, on November 4th, 1616, the new heir was formally installed in the dignities appropriate to that great position as Prince of Wales, Duke of Cornwall, and Earl of Chester. Nichols has compiled a detailed account of the ceremonies by which this occasion was honoured. They included a martial display of

<sup>1</sup> Joseph Mead to Sir Martin Stuteville, January 25th, 1622: Harleian MSS. Vol. 389, 274.

<sup>2</sup> The gentlemen of the Inner Temple adopted the more practical course of subscribing money for her assistance, as appears from the following entry in the Accounts of that Inn, 1621-22: "Item paid to Richard Mayer Chief Butler for collecting of divers somes of monie for the Pallatinate £1 10/-": Gen. Acct. Bk. I, 156.

<sup>3</sup> The premature death of this young Prince of golden promise was probably the greatest disaster that ever befell the ill-starred Stuart Line. Had he lived the history of England and of the world would have been different.

mimic combats called "the Barriers," given at Whitehall on the evening of the Investiture, by gentlemen from the four Inns of Court.

The first reference to this event in the Middle Temple Minutes occurs under the date, October 11th, 1616, when six named members of the Society, two of the Bench, two of the Bar, and two under the Bar, were "intreated to take care concerning the Barriers at the creation of the Prince and for provision concerning the furnishing of them with Armor and other necessities thereunto belonging."<sup>1</sup> For this display ten gentlemen were selected from each Inn. The names are given by Nichols "as presented to his Majestie," but apparently not very accurately, for some of the Middle Templars in his list cannot be identified. None of them appear to have been subsequently persons of note. The Inner Temple names include those of Master Vernon, later a Baron of the Exchequer and a Justice of the King's Bench, and Master Littleton, afterwards successively Solicitor-General, Chief Justice of the King's Bench, and Lord Keeper of the Great Seal.

The combats took place in the new Banqueting House, and are thus described by Nichols :

"At night to crowne it with more heroicall honour fortie worthie gentlemen of the noble Societies of the Innes of Court, being tenne of each house every one appoynted in way of honourable combate to break three staves, three swords, and exchange ten blowes apiece (whose names for their worthinesse I commend to fame), beganne thus each to encounter the other."

But how these combats proceeded and who were the victors he does not relate. Chamberlain, Sir Dudley Carleton's correspondent, was less flattering to the men of Law. On November 9th he wrote :

"Our Ynnes of Court gentlemen caried themselves but indifferently at the barriers the night of the Prince's creation but specially in theyr complements wherin they were not so gracefull as was to be wished and expected, but in requitall," he facetiously adds, "they played the men at the banquet."<sup>2</sup>

<sup>1</sup> C. 109.

<sup>2</sup> State Papers Dom. Jas. I, Vol. 89, No. 17.

Another of Carleton's correspondents, William Beecher, writing on the same date, also notices this performance as follows :

"The Prince's creation is lately passed over with a great deele of braverie though there were no sollempne triumphs acted, but only a combat of barriers performed by the Innes of Court; which according to custome was much desired and solicited from the Court and contemptibly censured after the performance. I thinke the courtiers did nothing bycause there was a loathnesse that the Prince should have been an actor and hee would have been loath to have been none." <sup>1</sup>

The details of the levy made at the Inner Temple to meet the expenses of this function afford interesting particulars of the numerical strength of the Society at this time. The contributories included 30 Benchers, 66 Barristers of seven years' standing and over, 42 Barristers of less standing, and 160 students, making in all 298 active members of the Inn, besides the 10 performers who were specially exempted from this taxation.<sup>2</sup>

Perhaps the unsatisfactory display made in martial exercise by the Inns of Court on this occasion suggested to the royal mind that they would be the better of a little practical training in the use of arms, for in the following March King James sent a communication to the four Societies, through Sir Francis Bacon (then Lord Keeper), proposing the formation of a volunteer corps of six hundred gentlemen to be raised from the Inns of Court and Chancery, "to practise and exercise in martiall discipline"; three hundred of whom should be under his own patronage and three hundred under that of his son the Prince. At the same time his Majesty supplied details of how this project might be carried into effect in certain "Orders conceived for the setling and establishing of the Company in their exercise of military disceplyne," which included (*i.a.*) the following: "None to be admitted but such as ar well affected in Religion"; the arms of the corps to be "not in their owne custodye but kept

<sup>1</sup> State Papers Dom. Jas. I, Vol. 89, No. 15; also Black Bks. II, 443.

<sup>2</sup> See Gen. Acct. Bk. I, 117. A/c. 1616/17: "Receipts of Richard Mayer (Butler) upon the barryers roll—30 Benchers @ 30/-, £45; threescore and six utter barresters above seaven yeares standing @ 20/- a peece £66; 42 of the utter barr being under seaven yeares standing @ 15/- a peece £31 10/- 160 of the barr @ 10/- £80 received for the offices £7 9/- summa £229 19/-." See also A.P. II, 123. An Account of the expenses of the Middle Temple was rendered to the Benchers by Richard Martin, but no details of this seem to have been preserved.

in some fitting place betweene tymes of exercis "; the Benchers to "sett forth and appriate (*sic*) what Howes shalbe of the Kinge's patronage and what of the Prince's "; the Benchers also to determine all matters of great weight, but lesser matters in time or place of exercise to be decided upon by twelve of the discretest young gentlemen out of all the Houses and the Captain; no priority to be given to any House, but to "take place first by chaunce of the dice and afterwarde by course and turne "; the arms to be musket and pike; the charge for admission to be "what themselves thinck fitt "; none to be "injoynd " except such as should voluntarily offer themselves; and six hundred to be a maximum figure for the Corps.

This royal proposal, which was made by letters patent, is set out verbatim with the suggested orders for the government of the Corps in the Records of Lincoln's Inn.<sup>1</sup> The compiler of the Middle Temple Minutes was content with a shorter notice of the matter :

June 27th, 1617. "Whereas his Majestie by his letters patent dated the 10th day of March last past 1616 <sup>2</sup> to the right hon<sup>ble</sup> Sir Francis Bacon Kt. Lord Keeper of the Greate Seale of England hath signified his pleasure that out of the Inns of Court and Chauncery there shall 600 gentlemen (such as shall voluntarily offer them selves thereunto) be tollerated and allowed to practize in marshall disciplyne : For as much as this concerneth the whole body of the Inns of Court and Chauncery And although uppon debate among the Readers of this howse and conference with some of the gentlemen under the barr yt ys conceived that there ys noe willingness nor ability to performe the contents of those letters Yet yt ys ordered that Mr. Treasurer shall confer with the Treasurers of the other howses therein that such awnswere maye be made to those letters as shalbe thought fytt and convenient." <sup>3</sup>

And there the matter seems to have ended, for there is no reference to it in any subsequent Minute. Had other views prevailed the Inns of Court Volunteers might have been anticipated by two centuries, or perhaps a corps established in London

<sup>1</sup> Black Bks. II, 193, 194.

<sup>2</sup> The year ending at this time on March 24th.

<sup>3</sup> C. 119, 120.



analogous to the Royal Company of Archers, the historic body-guard of the Sovereign in Scotland.

The practice of the Societies in regard to admittances and calls to the Bar, with one temporary variation noticed later, continued under James I as settled in the preceding reign. The tendency already noticed to a falling off in the number of admissions from Inns of Chancery becomes more pronounced, and, whereas the proportion of such admissions to others at the Middle Temple in the last fifteen years of Elizabeth appears to have been 1 in 4, it becomes 1 in 11 in the first ten years of King James, and 1 in 14 in the next decade.<sup>1</sup>

Calls to the Bar at the Middle Temple in the early part of this reign seem to have been severely limited, rarely more than two or three being called at one time.<sup>2</sup> At the Inner Temple, on the other hand, twenty-nine were called on May 19th in the first year of King James.<sup>3</sup> This appears to have occasioned remark and incurred the disapproval of the Judges, for on November 23rd, 1606, the Bench of the Inner Temple passed the following order :

“Whereas heretofore it hath beene used in this House to have a call of Barresters but once in three or fower yeares which was the cause that the number was great of those that were then called which gave occasion of much speech and marvaile to the Judges and others It is therefore ordered at this parliament for avoindinge of so great numbers to be called at one tyme that from henceforth in the first parliament of every Hillarye and Trinity Tearme there shalbe a call of Barristers and at every of those calles not to call to the Barr above the number of fower and those to keepe all the exercise of the Tearme wherein they are called and the next vacacon followinge.”<sup>4</sup>

<sup>1</sup> The admission figures appear to be—1603–13, total 706 : of these, 61 being from Inns of Chancery ; 1613–23, total 561 : of these, 39 from Inns of Chancery. The Inner Temple Parliament Books, under the date May 9th, 1619, notice a complaint by the Principals and Governors of the Inns of Chancery attached to that House, that their Houses were grown so scarce of students that by reason thereof the ordinary exercises of learning decayed and could not be performed. The matter was referred to certain members of the Inn for consideration : see A.P. II, 134.

<sup>2</sup> There is one exception to this. On June 7th, 1605, as many as fifteen were called : see D. 335.

<sup>3</sup> A.P. II, 48.

<sup>4</sup> *Ibid.* 65.

There is evidence also of a strict control by the Benchers over calls at the Middle Temple. Thus, on February 10th, 1603, five calls were stopped and referred to the next parliament, at which none of them appear to have been allowed; while at a parliament held on May 30th, 1606, two calls by the preceding Lent Reader were respite<sup>d</sup> for further consideration with results stated in a later Minute of June 27th as follows: <sup>1</sup>

“Whereas Mr. George Vaux and Mr. Thomas Ashford two gentlemen of this Society weare called to the degree of the Utter barr by Mr. Bastard in his Reading in the tyme of Lent last which Utter barristers nevertheless by former orders of this howse weare to have further allowance and confirmacion of their calling to the Barr by us the Masters of the Bench in our parliament, otherwise their calling by the Reader to be voyde, And whereas at the last parliament the confirmacion or allowance of the said Mr. George Vaux and Mr. Thomas Ashford weare for divers causes us moving respited to be further considered of until the next parliament, sythence which tyme and before the said next parliament (that is to saye uppon Sondaye beeing the first day of this instant June at Serjeant's Inn Fleet Street, the Treasurer, the said late Reader, and two auncients more of the Bench, with like number more of other howses of Court beeing called before the right honorable Sir John Popham Kt Lord Cheefe Justice of England, Sir Thomas Fleming Kt Lord Cheef Baron and all other his Mat<sup>ies</sup> then Judges of his highnes three Courts at Westminster assembled at Serjeants Inn Fleet Street The said calling to the Barr of the said Mr. Vaux was then and there by the said Judges misliked whom many of the said Judges did then and there openly affirm for causes to themselves knowen to be a person unworthy of that degree and therefore they wished and advized that the said Benchers should sett downe an order for disallowance of his call the next parliament: now accordinge to the said advice and direction wee doe disallow the said Mr. Vaux to be an Utter barrister and do declare his said calling by the Reader to bee voyde.”

<sup>1</sup> D. 345, 346.

This reads like an appeal from the Benchers to the Judges, such as might be brought in the present day ; but with provoking brevity the record gives no indication of the reasons why the Judges considered Mr. Vaux unworthy of call. Nor is any further light thrown upon this point by a subsequent entry of November 9th, 1609, which states that notwithstanding all the Judges at Westminster had affirmed that Vaux was unworthy of the degree, and advised that his call be disallowed, he had since practised as an Utter Barrister contrary to their order, and is now forbidden to do so or to wear the habit of an Utter Barrister on pain of such fine as the Bench shall think fit.<sup>1</sup>

Under the date November 28th, 1607, a record of calls to the Bar states that the members of the Inn called to the degree were sworn. This appears to be the first statement of the kind in the Middle Temple Minutes. A similar statement occurs frequently after this.<sup>2</sup> As already mentioned, the Statute 5 Eliz. c. 1 (§ 5) imposed upon Utter Barristers, amongst others, the obligation of taking the oath of the Royal Supremacy.<sup>3</sup> Whatever the former practice had been as to its administration, the taking of this oath seems now to have been made part of the ceremony of calling to the degree. By an Act for the better discovering and repressing of Popish Recusants (3 Jac. I, c. 4, § 15), another oath, that of obedience or allegiance, had been enacted in 1605, and in 1609 the duty of taking this oath upon the Evangelists was imposed upon all the King's subjects above the age of eighteen years in the Inns of Court, or who should thereafter be admitted thereunto before the Readers or Benchers of the several Houses whereto they belonged, or four of them at the least in their open halls (7 Jac. I, c. 6, §§ 2 and 51). Hence, after this enactment, the taking of both oaths became obligatory.<sup>4</sup>

On October 26th, 1610, a Middle Temple parliament resolved, with respect to calls to the Bar, as follows :

“ Yt ys agreed at this parliament and so ordered by the masters of the Bench that from henceforth no Reader of this howse shall at the tyme of his Reading call any student of this howse to the degree of the Utter Barr except he hath formerly performed the exercise both within this howse and also at the

<sup>1</sup> D. 392 ; M.T.R. 513.

<sup>2</sup> C. 98.

<sup>3</sup> *Ante*, p. 193.

<sup>4</sup> On February 9th, 1615, the Benchers of the Middle Temple ordered “ that the othe of the allegiance shall forthwith bee administered to all such gentlemen of this House that have not taken the sayde othe ” : C. 89.

Innes of Chauncery according to the orders of this howse, And to be of seaven yeares continuance in this howse at the leaste, And yf there shalbe none in Comons at anye such Reading that hath performed the exercise and of seaven yeares continuance at the least, as aforesayd, that then the Reader ys not to call any to the Barr.”<sup>1</sup>

On May 3rd, 1611, four members of the Society called by the Lent Reader were suspended, and it was agreed and ordered further by all the Masters of the Bench

“that from henceforth the Readers shall have no power nor authoritye to call or nominat any to the degree of the Utter Barr: Butt that the calling of Utter barristers to be for ever hereafter by parliament onely.”<sup>2</sup>

On October 26th, 1611, to remedy the neglect of students and compel attendance at the Moots and learned exercises, a new system was adopted of putting Utter Barristers on probation for two years after call. The order decreeing this was as follows:

“To the intent that onely such as by their learning doe meritt the sayde degree should bee therewith graced yt ys . . . enacted . . . that such as hereafter shalbe thought fytt by the Masters of the Bench to be called unto the degree of the Utter bar shall at the first be nominated onely as probationers and shall soe continew by the space of two yeares in which tyme yf they in person shall performe their two assignments of Mootes with the approbation and allowance of the Masters of the Benche and keepe fower of their Reading vacations according to the auncient orders of this howse, And that being don, then they are to take their othe and use the habitt of an Utter barrister and not before.”<sup>3</sup>

This system, however, proved unsatisfactory, and, on February 9th, 1615, it was abolished in response to a petition by divers Utter Barristers.<sup>4</sup>

<sup>1</sup> C. 10.<sup>2</sup> C. 20.<sup>3</sup> C. 25.<sup>4</sup> C. 98.



On November 7th, 1614, certain orders had been set down :

“ For reformation and better government for the Howses of Courte and chauncery agreed uppon by the Comon and uniforme consent of the Readers and Benchers of the fower howses of Courte which orders proceded first from his mat<sup>ies</sup> speciall care and commandment and weare after recomended unto the sayde Readers and Benchers by the grave direccion and advise of all the Judges.” <sup>1</sup>

Two of these which had reference to calls to the Bar were as follows :

“ Fifthly for that the over greate multitude in anye vocation or profession doth but bring the same into contempt and that an excessyve number of lawyers <sup>2</sup> maye have a further inconvenience in respect of multiplying of needles sutes Yt ys therefore ordered that there shall not be called to the Barr in anye one yeare by Readers or Benchers in any one Societie above the number of eight or according to that proportion beeing of continuance and having don the exercises according to the orders of the severall howses.

“ Sixtly for that the over early and hasty practise of Utter barristers doth make them lesse grounded and insufficient whearby the Lawe maye be disgraced and the client prejudiced Therefore yt ys ordered that for the tyme to come no Utter barrister begyn to practise publicquely at any barr at Westmynster untill he hath bynn three yeares of the barr except such Utter barristers have bynn Readers in some Howses of Chauncery.”

Orders enforcing attendance at Moots continued to be made, and in April, 1616, the puisne Butler was required to take the names of all gentlemen keeping the case in the Hall, and to

<sup>1</sup> C. 80 ; A.P. II, 112.

<sup>2</sup> Nine years earlier (1605) an Act (3 Jac. I, c. 7) had been passed (*i.e.*) to avoid the infinite number of Solicitors and Attorneys, and providing that none should henceforth be admitted Attorneys in any of the King's Courts of Record but such as had been brought up in the same Courts or otherwise well practised in soliciting of causes, and been found by their dealings to be skilful and of honest disposition, etc. (§ 2).

certify them to the Treasurer at the beginning and end of every Term.<sup>1</sup>

At the Inner Temple about this time a similar difficulty was experienced in securing attendance at the Moots, and in February, 1617, the following directions amongst others were given in that Inn with regard to calls to the Bar :

“ Yt is therefore hereby declared and ordered that no man shall bee called unto the Barr before he hath beene full eight yeares of this house and beene for all or most part of that tyme heere resident in Comons : Likewise that no man shalbe called to the Barr in this house but such as are knowne to bee painfull and sufficient students and shall have usually frequented and argued graund and petty moots in the Innes of Chancerie and hath brought in moots and argued clarkes comon cases within this house.”<sup>2</sup>

In the conduct of the Moots much importance was attached to proper pleadings being drawn for the case to be debated. Under a rigid and highly technical system of pleading, familiarity with its rules was essential for those intending to practise in the Courts. This part of the exercise, however, was not popular with the junior members of the Inns, and there was a tendency to neglect it, as is shown by an order of the Middle Temple in a later Minute of June 27th, 1623. This order required gentlemen who brought in exercises of Moots to be sat on and argued by the Masters of the Utter Bar, to also form and draw pleadings to their case, and deliver them in writing to the ancient (senior) Butler two days before their Moot, that he might assign in course or by the direction of the Bar two younger students to every Moot to repeat the same pleadings, and that afterwards the puisne Mootman should again recite them. A penalty of 40s. was imposed upon failure to comply with this order. Moreover, any gentleman of the Bar sitting upon a Moot when this order was not observed was made liable to a like penalty, and if the puisne Mootman failed to rehearse his pleadings before falling to his case and argument, the Moot was not to be allowed as an exercise.<sup>3</sup>

Further light is thrown on the conduct of the learning exercises at this time by two passages in the autobiography of Sir Simonds D'Ewes of the Middle Temple. The first relates to his training as a student under the Bar :

<sup>1</sup> C. 102.

<sup>2</sup> A.P. II, 124.

<sup>3</sup> C. 185.

“On Monday night Nov<sup>r</sup> 18th, 1622 after supper, our Reader of New Inn as he was accustomed in Term time went thither to argue a case, or moot point with two students only of the same term and I making one, performed the exercise with good success, this being the second public law case I argued. The third, being more difficult than either of the former, soon after followed, on Thursday the 12th day of Dec<sup>r</sup>, when I argued a like moot point in our Middle Temple Hall in Law French, after supper to my good content.”

The second passage gives an account of his experiences on Thursday, July 10th, 1623, when, a fortnight after his call to the Bar, he took part for the first time as an Utter Barrister at a Moot in the Hall. His description of the proceedings shows that calls took place at the Cupboard, and that while mooting the Utter Barristers wore caps, while the students argued bare headed.

“On Thursday the 10th of July after our supper in the Middle Temple Hall ended, with another Utter Barrister I argued a Moot at the Bench to the good satisfaction of such as heard me. Two gentlemen under the Bar arguing it first in Law French bare headed, as I did myself before I was called to the Bar at the Cupboard. This was the first legal exercise I performed after I was called to the Bar, after which many others followed.”<sup>1</sup>

In this reign a new form of entertaining in the Inns makes its appearance. This was the giving of dinners by gentlemen called to the Bar in celebration of the occasion, and even by the Mootmen under the Bar on their first taking part as Mooters in the exercises of the house. This practice, so far as the Mootmen were concerned, is first noticed in the Records of the Inner Temple; where, under the date October 13th, 1611, it is stated that great sums of money, ranging from twenty nobles (£6 13s. 4d.) to £10, were spent by divers gentlemen in banquetting the Utter Barristers who sat upon the Moot and others, an extravagance which disgraced other students “not able to performe soe greate a charge,” and caused them to “forbeare

<sup>1</sup> Autobiography (Edit. 1845), I, 221, 232, 233.

the exercise." The Treasurer was accordingly requested to inquire into the matter and certify the names of offenders to the Bench.<sup>1</sup> That entertainments of this kind were likewise regarded with disfavour at the Middle Temple appears by a more comprehensive order made there on May 23rd, 1623, as follows :

" For as much as nowe of late divers gentlemen of this house when they are first called to the barre have used to feast or banquet their frends and fellowes of the same Society And in imitation of their example divers gentlemen under the barre have done the like at such tyme as they bringe in theire firste exercise of Moots into the hall both which are meere innovacons and abuses lately crept into this Society without warrant or president of former and better times and are therefore thought fitt to be suppressed and abolished as thinges drawinge on an unnecessary charge without profit or credit to anye for reformacon whereof and to the ende the said disorder maye be noe more used but from henceforth utterly suppressed and abolished the Masters of the Benche in this present parliament assembled have ordered and enacted that noe gentleman of this house whether he be of the barre or under the barre shall upon anye such occasion hereafter make anye such feast Banquett or Invitacon upon paine that anye such gentleman of the Barre soe offendinge shall forfeit and paie to the use of this house the sume of five pounds and every gentleman under the barre for such his offence the sume of three pounds sixe shillings and eight pence." <sup>2</sup>

The Middle Temple Minutes also contain many references about this time, to the negligence of younger members of the Inn in failing to conform to the rules of study laid down for their learning, and these, coupled with numerous instances of disorder, some of which will be noticed later, indicate a growing disposition to resent control and rebel against the discipline hitherto prevailing. No doubt this was only a reflexion of the general spirit of the age, and that tendency to resist constituted authority which, stimulated by the unwise pretensions of the

<sup>1</sup> A.P. II, 93.

<sup>2</sup> C. 184; again prohibited 1639 and 1647: B. 222, 324.



Crown was soon to find a fuller expression in the turmoil of the great rebellion.

Elizabeth's reign had been fruitful in orders enjoining conformity with the established religion. The fear of Popery still strong in England was greatly accentuated by the Gunpowder Plot of 1605, and renewed importance was thus given to the religious test of receiving the Holy Communion. A book was kept by the Master of the Temple in which the names of those members of the Inns who complied with this test were entered. In June, 1609, it appeared from this Book that while at the time of the last ministration of the Communion about two hundred and sixty gentlemen had been in Commons, only one hundred and twenty had received the Communion. On being informed of this the Benchers of the Middle Temple ordered that the former act of parliament should be enforced, and all gentlemen receive the Holy Communion once a year under a penalty of 10s. unless they could sufficiently excuse themselves.<sup>1</sup> In the following year admission to a chamber was made in one case conditional on first receiving the Communion.<sup>2</sup>

On July 8th, 1614, a still more drastic order was made as follows :

“ For as much as divers gentlemen of this howse have of late tyme neglected to come to the church and specially to the Communion Yt ys therefore thought fitt and so ordered by all the Masters of the Bench at this parliament that from henceforth all such gentlemen of this howse that shall refuse or neglect to receave the Communion in the Temple Church twice within the compas of everye yeare shall be expulsed owt of this howse and fellowship, except sicknes or extraordinary letts and hindrances made knowen to the Masters of the Bench and by them allowed shall cause the contrarie.” <sup>3</sup>

In the Inner House also the Benchers were insistent upon compliance with this test, in proof of which may be cited an order made by them on February 9th, 1616, with reference to calls to the Bar :

“ And likewise that there shall no man bee called to the Barr in this house but such as are knowne to bee of sound and good

<sup>1</sup> D. 387.

<sup>2</sup> C. 6.

<sup>3</sup> C. 74.

religion free from Poperie and so shall shew themselves all the tyme of their contynewance within this house by usuall resortinge to the Church and receiuinge the holy Sacrament.”<sup>1</sup>

The Government of King James stood much in dread of “Recusants,” as Popish sympathizers were called, and some of the orders issued to the Inns of Court in 1614 reflected their anxiety. Of these orders the three first were as follows :

“First for that there maye be greate abuse in the lodging and harboring of ill subjects or daungerous persons in the sayde Inns of Court and Chauncery beeing privileged places, yt ys therefore ordered that there be generall searches in every howse of Court and Chauncery twyse every Michaelmas Tearme and once every other Tearme to be agreed uppon by the generall consent of the Readers and Benchers of the howses of Court and likewise once every vacacion.

“Secondly for that the Societies ought to give a principall example of good government in matters of religion and to be free not onely from the cryme but from the suspition of ill affection in that kynde yt ys ordered that every gentleman of the severall Societies aforesaide which shalbe in Comons at any tyme after the publishing of these orders and shall not receave the communion yearly by the space of any one yeare together he shalbe expelled *ipso facto* And never the lesse the further orders of every particular howse in that behalf to stand in force.

“Thirdly for that the institution of these Societies was ordayned cheefly for the profession of the Lawe and in a second degree for the educacion of the sonnes and youth of riper yeares of the nobility and gentry of this Realme and in no sorte for the lodginge or abode of any gentlemen of the country which yf yt should be suffered weare to disparige the sayde Societies and to turne them from *Hospicia* to *Diversoria* yt ys ordered that no knight or gentleman forreynors or discontinuers shalbe admytted or allowed to lodge in anye of the Societies aforesaide or to be in Comons excepte he be an allowed Utterbarrister.”<sup>2</sup>

<sup>1</sup> A.P. II, 124.

<sup>2</sup> C. 80; A.P. II, 112.

This last order exemplifies the distaste with which the Crown regarded the residence in London (already deemed to be overpopulated) of persons whose proper spheres of activity lay elsewhere. Indeed, King James is reputed to have declared that only three sorts of persons had any right to be in London : the citizens, Courtiers, and gentlemen of the Inns of Court. The exclusion of Attorneys from the Temple was once more insisted upon in the next order :

“ Fourthly for that there owght alwayse to be preferred a difference betwene a Counsellor at Lawe which is the principall person next unto Serjeants and Judges in administracion of Justice and Attorneys and Solicitors which are but ministeriall persons and of an inferior nature Therefore yt ys ordered that from henceforth no common Attorney or Solicitor shalbe admytted of any of the fower howses of Court.” <sup>1</sup>

Further, to counteract the unruly spirit of the age and to enjoin a better respect for the governing authorities in the Inns, these orders also provided :

“ Ninthly for that ane outward decency in apparell ys an ornament to all Societyes and contayneth younge men within the bounds of cevility and order yt ys ordered that no gentleman of any howse of Court or chauncery shall come into the severall halls with clokes, bootes, spurs, swords or daggers.

“ Lastly for that all government is strenghtned or slacked by the observing or neglecting of the reverence and respecte which ys to be used towards the governors of the same therefore yt ys required that due reverence and respect be hadd by the younger sorte of gentlemen to the Readers and Benchers and Auncients of every howse.” <sup>2</sup>

<sup>1</sup> C. 80 ; cf. A.P. II, 112.

<sup>2</sup> C. 81 ; A.P. II, 112, 113.

## CHAPTER VII

### THE REIGN OF KING JAMES I—*continued*

NOTWITHSTANDING the disfavour with which the Crown viewed the increasing population of London, and the issue of royal proclamations against the building of more houses, there was considerable activity of this kind in the Temple during the reign of James I. In June, 1608, six members of the Middle Temple Society undertook to erect a new range of chambers from Inner Temple Lane into the churchyard, and were granted one life in possession and one assignment, the assignee to be in each case a member of the Inn.<sup>1</sup> On like terms two other members, Francis Warnett and John Puleston, in November, 1609, were authorized to build new chambers in the kitchen garden northwards towards the brick wall which divided that garden from the town buildings. In this case the Benchers imposed the following condition: "The outside and the ends of the sayd buylding to be made with good and well burned bricks from the foundation to the topp."<sup>2</sup> This building is subsequently referred to as "The new brick building by Middle Temple Lane." Eight admittances to chambers in it were granted on May 18th, 1610.<sup>3</sup>

A further new building was erected in the summer of 1611 by Sir Walter Cope and Sir Arthur Gorge on the east side of the Middle Temple Gate, and the Treasurer was directed to admit to chambers in this building without fine such gentlemen of the Fellowship as the two Knights might nominate.<sup>4</sup> Neither of these undertakers appears to have belonged to the Society, which marks the case as exceptional. They were engaged at this time upon a project (authorized by royal letters patent) of founding a central office for the registration of sales of land and merchandise, and it may be this building venture in the Middle Temple had some connection with that enterprise. In 1613 Cope was appointed Master of the Wards. He was himself an extensive dealer in land, one of his purchases being the Manor

<sup>1</sup> D. 370.

<sup>2</sup> D. 394.

<sup>3</sup> C. 2, 3.

<sup>4</sup> C. 27.



of Kensington, where he erected a house called "Cope's Castle," which, passing with his daughter to her husband, Henry Rich (created subsequently Earl of Holland), became known as Holland House.<sup>1</sup> Gorge or Gorges was a typical Elizabethan Knight—the friend of Spenser and Raleigh and a co-adventurer with the latter. He published in 1619 a translation of Bacon's "De Sapientia Veterum," was himself a poet, and participated in other activities characteristic of the age.<sup>2</sup> The building erected by these gentlemen, however, was taken down a few years later and replaced by other chambers.<sup>3</sup>

Earlier in this year (1611) the removal of a study recently constructed at the west end of the Hall was sanctioned :

"Yt ys agreed and ordered that the studdye latlye buylded at the west ende of the hall by Mr. Pagitt shalbe taken downe and the wall and dore place to be made up againe and a butteris to be sett upp in the same place at the chardges of the howse." <sup>4</sup>

In 1612 a building of brick was erected in Vine Court over the cloisters "contayninge three stories besides the rooffe" by Master Francis Tate, "at his owne proper costs and chardges without anye contribution of the house." Tate was a Bencher of the Middle Temple, and very eminent in his day as a profound lawyer and antiquary.<sup>5</sup>

Two years later, in the summer of 1615, Anthony Luther, one of the Masters of the Utter Bar, rebuilt in brick near the Middle Temple Gate certain chambers which had become ruinous. "For his greate charges expended in and about the sayd buylding" he was granted two assignments in all the chambers so built by him, and three in the chamber he selected for his own occupation, which was in the third story. These chambers subsequently became known as Luther's Building.<sup>6</sup>

The system under which the erection of new chambers was thus left to the private enterprise of individual members, while it relieved the Society of liability for the cost, limited the revenue the Inn derived from such chambers during the continuance of the undertakers' interest to the fines payable to the Treasurer by successive tenants on their admissions; for not until a chamber fell in to the Society could the Benchers let it at a rent payable to the Inn. It was no doubt in consequence of

<sup>1</sup> D.N.B. XII, 168.    <sup>2</sup> *Ibid.* II, 351.    <sup>3</sup> B. 32 (1629).    <sup>4</sup> C. 18.

<sup>5</sup> C. 36; O.J. 188; *Athenæ Oxon.* II, 179,    <sup>6</sup> C. 88.

the disadvantage thus arising that a parliament of the Middle Temple, held on February 10th, 1614, resolved that

“no gentleman of this howse shall from henceforth erect or buyld any new buylding in any place within the howse. But yf anye new buylding shall at any tyme heereafter be made to be at the charge of the howse and the howse to have the disposing of the chambers.”<sup>1</sup>

However laudable its purpose, this was a premature resolution as events proved.

Indeed, the next building operation was again a private enterprise. It was carried out by John Bayliff, the Under Treasurer, who expended £160 in improving the ways and passages from Elm Court, Pump Court, and the Gallery towards the church (which are described as having been dark and noisome), and in so doing new built and gained to the House two single chambers and two new shops. In consideration of this, and £100 paid by him, Mr. Bayliff was granted, on October 27th, 1620, two assignments of each of the new chambers and shops for a term of twenty-one years at the nominal yearly rent of 20s.; the Benchers, however, reserving the right to buy back his interest in the two shops for £50, provided this were done within two years.<sup>2</sup>

In 1623 there is evidence of further building in Brick Court. These chambers are mentioned in two Minutes of May of that year as having been erected last vacation and being three stories high.<sup>3</sup>

The want of funds for new buildings left the Inn also at a disadvantage in the matter of maintenance and repairs. Benchers' chambers were repaired at the expense of the Society, but other members had the duty imposed on them of doing their own repairs. For this they naturally had little enthusiasm, and to get the work done it was sometimes necessary to apply external pressure. A minute, dated October 26th, 1621, deals with this matter, and recites the practice then prevailing in the following terms:

“By the longe and continued usage of this house everye gentleman of this fellowshippe (the Masters of the Benche onely excepted) having a chamber or parte of a chamber in the same hath usuallye repaired and amended his said chamber or parte

<sup>1</sup> C. 85.

<sup>2</sup> C. 163.

<sup>3</sup> C. 183, 184.

of a chamber and the stayers leadinge thereunto in all points both within and without at his owne proper costs and charges without anye allowance or contribucon from the house.”<sup>1</sup>

Notwithstanding this usage, however, many chambers and the stairs leading to them had at this time fallen into great decay for want of such reparation, and were likely, so the Minute states, to grow worse and worse every day, unless some fitting course were speedily taken for their preservation. Accordingly, the Treasurer and Under Treasurer were directed to view the chambers and stairs of the Inn, to discover what occupants had thus failed in their duty, and to require such gentlemen to execute all necessary repairs by a fixed date under penalty of having their chambers seized if the work was not done.<sup>2</sup> As there is no record of any chambers being so seized presumably this ultimatum was effectual.

Passing now to the Inner Temple, there is evidence that, early in the reign of King James, the Hall of that Society was proving inadequate to meet the needs of the increasing numbers keeping Commons in the House, and that in consequence meals were served in the Library as well as in the Hall. To check this, on July 8th, 1606, the following order was made :

“It is thoughte meete at this parliament and soe ordered that there shalbe no further dyninge or suppinge in the Lybrarye by the gentlemen of the howse in regard it is mente to bee kepte sweete and clenly for exercises of learninge and receyv-inge of noble personadges at the feastes in the Readinge tymes But for supplye another Table is to bee sett in the hall when neede is at the discreson of Master Treasurer.”<sup>3</sup>

The natural remedy, rebuilding the Hall on ampler lines, does not seem to have been contemplated, probably on account of the expense this would have entailed. But on February 7th, 1607, a committee was appointed to

“consider of a place to be newly builded at the lower ende of the hall for such gentlemen to dyne and supp in as cannot have place in the hall and to consider howe the said [place] maye be made aunswerable to the Librarey without any prejudice to the chambers thereunto adjoyninge and to certefie their opinions thereof at the next parliament.”

<sup>1</sup> C. 170.

<sup>2</sup> *Ibid.*

<sup>3</sup> A.P. II, 63.

In the result the work was carried out at a cost of £129 7s. 1d.<sup>1</sup>

This alteration was followed in 1609 by the erection of a new building on part of the site now covered by Paper Buildings. A licence for the purpose was granted to four members, and from the surname of the first licensee, this building became known as Heyward's Building. A Minute of May 28th, 1609, shows that the authorized length was 88 feet, the breadth 26 feet, and the height four stories. When finished this building contained sixteen chambers,<sup>2</sup> and a ground rent of 20s. per annum, or 1s. 3d. per chamber, was charged upon it. The licensees seem, however, to have broken faith with the Inn, for on June 13th, 1619, there is a record that they had not built in the substantial manner stipulated for, and had raised their building half a story higher than their licence permitted them to do. Moreover, Heyward, on his own confession, besides getting a free chamber for himself, had made a profit of £400 out of the transaction. His privileges were accordingly reduced. One of the tenants of this new building (and Heyward's chamber fellow) was the celebrated John Selden.<sup>3</sup>

In 1610 the rebuilding of the Inner Temple Gate in Fleet Street was authorized. The undertaker was John Bennett, one of the King's Serjeants at Arms, who at the same time reconstructed his own house called the "Princes Armes," which adjoined and extended over the Gate and part of the Inner Temple Lane. He was granted permission to jettie over the Gate towards Fleet Street 2 feet 4 inches, besides the windows, and to bring his building back from the street to a depth of 19 feet. He undertook to enlarge the Gate and make it 11 feet high and 9 feet wide. This entrance to the Temple remained, however, one for foot passengers only.<sup>4</sup> The house as rebuilt was long believed to have been used as the London office of the Duchy of Cornwall, and the room over the Gate to have been at one time the Council Chamber of Prince Henry as

<sup>1</sup> A.P. II, 72; Gen. Acct. Bk. 1607-8.

<sup>2</sup> A.P. II, 79, 96 (November 24th, 1611).

<sup>3</sup> *Ibid.* 134. These chambers are subsequently described as of a "weake and unseemlie forme of building," and by reason of their situation much hindering "the ayer and prospect from a greate parte of this house towards the garden and Thames," and therefore thought fit to be taken down: April 26th, 1629, A.P. II, 174. They survived, however, till the reign of James II.

<sup>4</sup> *Ibid.* 84, 85. In regard to this rebuilding there seems to be some discrepancy between the Records of the two Inns, as those of the Middle Temple attribute it to "William Blake Citizen and Vintner" (C. 15). Blake appears to have been tenant of the premises under Bennett, from whom he purchased them shortly after. See "Prince Henry's Room, No. 17, Fleet Street," London County Council Pub., 1923.



Duke of Cornwall, but this interesting legend finds little support in the history of the building as now known.<sup>1</sup>

More fortunate in that respect than the Middle Temple Society, the Inner House seems to have had funds available at this time for carrying on building operations at the expense of the Inn. Thus, from a Minute of November 6th, 1620, it appears that certain chambers, there described as an old and ruinous building, were rebuilt "in the Temple Lane" during the Treasurership of Sir Thomas Coventry (afterwards Lord Keeper) "out of the Trespure of the house," and the Account Book shows that £285 were so expended.<sup>2</sup> Another building venture of the Society was the King's Bench Office, erected with chambers over it about the same time. This was a more formidable undertaking, and the cost reached a total of £1302 6s. But £400 of this outlay was contributed by the Marquis of Buckingham, Master of the Office, and in receipt of its emoluments.<sup>3</sup> Upon a third enterprise the Benchers expended a further sum of £662 9s. 5d. These last building operations were in Figtree Court.<sup>4</sup>

Another matter which also engaged the attention of the Inner Temple Bench in this reign was the water supply of the Inn. At the close of the year 1617 the chief Cook drew attention to the "decay of the conduit springs and the want of Water in the kitchin."<sup>5</sup> A few years before the New River undertaking planned to bring fresh water from the springs of Chadwell and Amwell near Ware to a reservoir for London, had been successfully carried out by Mr. Hugh Myddelton (goldsmith and banker), and this suggested a new source of supply. A committee was appointed to consider the matter, and on their report Mr. Recorder Heath was desired, in June, 1619, to treat with Mr. Myddelton and compound with him to serve the House with New River water if it might be had reasonably. The negotiations which followed ended in an agreement under which for an initial payment of £20 and a half-yearly rent of £1 6s. 8d., a regular supply of fresh water was secured for the Inn.<sup>6</sup>

<sup>1</sup> On the ceiling of this room, now in the careful keeping of the London County Council, may still be seen the feathers of the Prince of Wales with the motto "Ich dien" and the letters P.H., probably placed there when this son of James I held the Duchy: see "Prince Henry's Room," cited *supra*.

<sup>2</sup> A.P. II, 140; Gen. Acct. Bk. I, 139.

<sup>3</sup> Gen. Acct. Bk. I, 152, 153.

<sup>4</sup> *Ibid.* 164.

<sup>5</sup> A.P. II, 128.

<sup>6</sup> *Ibid.* 134; Gen. Acct. Bk. I, 133, 140.

The Middle Temple likewise availed themselves of the New River water, but probably at a much later date. No record has been found in their Minute Books showing when the water was first taken. A similar payment for this water (£1 6s. 8d.) appears in their Accounts for the half year ending December 25th, 1653.<sup>1</sup>

In May, 1617, King James through his Council made a proposal to the Benchers of the Middle Temple which he may have expected the ancient amity between their Society and that of Lincoln's Inn would have induced them to entertain. This proposal had reference to the fields adjoining Lincoln's Inn on the west, which were waste land and dangerous to the public by reason of the disorderly characters who frequented them. By the royal message the Benchers were invited to persuade the members of the Middle Temple Society to vote a liberal contribution towards the cost of converting this no man's land into convenient walks, after the manner of Moor Fields. The ancient friendship of the two Inns did not carry the Benchers, however, quite so far as that, for the Minute which records the Royal proposal concludes as follows :

"Albeit wee are exceeding desirous to satisfie his Majestie's pleasure therein as in every other matter yet forasmuch as wee have no use of those walks and wee have noe money in our tresury but are indebted in dyvers somes of money, therefore wee praye to be excused therein and doe agree uppon conference that we can doe nothing therein." <sup>2</sup>

The Treasurer continues to be the executive head and chief officer of each Society. In the Middle Temple his importance increases, if anything, for at a parliament held on April 19th, 1616, it was ordered

"that all privat matters that shall heerafter be debated of in parliament shalbe propounded by Mr. Treasurer for the tyme beeing onely And that no replicacion be made by anye of the

<sup>1</sup> M.T. Cal. 163.

<sup>2</sup> C. 120. It was not until many years had elapsed that these fields were enclosed and effect given to the proposed improvements under the statute 8 Geo. II, c. 26, which authorized the levying of a rate for the purpose on the occupiers of the adjoining houses to whom the new walks were no doubt of more advantage than they could have been to the Temple Societies in the reign of James I: see Black Bks. of Lincoln's Inn, III, 470.







Masters of the Bench to any matter debated in parliament untill all have spoken that will." <sup>1</sup>

The effect of this order seems to have been to give the Treasurer a veto over what "privat matters" should be discussed. Six months before, on November 24th, 1615, an order had been made dealing with debates in the Middle Temple parliaments the marginal note opposite which is "Matters of Councell not to be revealed." This order was as follows :

"What matter of counsell that shall from henceforth be debated or spoken of in any parliament holden in this howse yf any such matter shalbe revealed by any of the Masters of the Bench yt being proved that then every such Benchman shall lose his voice in parliament and yf the Undertreasurer of this howse for the tyme beeing shall disclose any matter of counsell as aforsaide yt being proved other than such matters as Mr. Treasurer shall publyshe to the Masters of the Utterbarr at their comyng into the parliament chamber that then the Undertreasurer to stand expulsed out of this howse and Fellowship." <sup>2</sup>

The exception of matters published to the Utter Barristers coming into the parliament chamber has reference to an ancient custom of the Inn by which the Masters of the Bench from time to time summoned other members, who were Utter Barristers, to attend the parliament for the purpose of being informed of new orders made by the Bench affecting the life of the Inn. Their attendance was after the orders had been made; they were, therefore, not summoned for consultation, but only that they might know what the new orders were. The Brerewood MS. states that parliaments to which they were thus summoned were called parliaments of attendance.<sup>3</sup> When required to attend they were liable to a fine of 3s. 4d. each if they failed to do so. These fines appear in the Middle Temple Records as early as January 29th, 1501,<sup>4</sup> and continue to be imposed till at least the close of the seventeenth century. An instance of such fining occurs so late as May 14th, 1697,<sup>5</sup> though in this case the fine was subsequently remitted.

<sup>1</sup> C. 102.

<sup>2</sup> C. 96.

<sup>3</sup> One of these parliaments is described by Edward Bagshaw, Lent Reader, 1639, in his *Vindication of his Reading* (pub. 1666), p. 14.

<sup>4</sup> A. 1.

<sup>5</sup> E. 443.

On June 15th, 1621, a further order regarding the office of Treasurer was made at the Middle Temple, this time with reference to future elections :

“From henceforth everye Treasuror of this house for the yeare succeedinge shall alwaies be nominated everie yeare in the last parliament in everye Trinitie terme But shall not intermedle nor be charged in account for or concerninge anye receits or disbursements for the house as Treasuror before the feast of St. Michaell then next followinge and from thenceforth for one whole yeare to be ended at the feast of St. Michaell which shall next succeed and soe from henceforth everie yeare everye Treasuror of the house successivelye to account of receits and disbursements for the house from Michaelmas to Michaelmas And shall be readie with his account the first fridaye in everye Michaelmas terme to present the same openly in full parliament to the Benche and there uppon to yeild up and relinquishe his place and office of Treasurorshippe to the next succeedinge Treasuror whoe shall then alsoe first take his place in parliament as Treasuror for the yeare followinge.”<sup>1</sup>

This order was followed by another four months later, directing the Treasurer's account after it had been passed to be entered in a book kept for that purpose, which was to remain in the custody of the Inn ; and this was to apply to the accounts of all subsequent Treasurers.<sup>2</sup>

In November, 1619, Mr. Richard Baldwin, who had filled the office of Under Treasurer at the Middle Temple for twenty-eight years, was relieved of his duties, and Mr. John Bayliffe, a Master of the Utter Bar, appointed in his place.<sup>3</sup>

If the office of Treasurer was being endowed with more extensive powers that of Reader, on the other hand, was being shorn of some of its prerogatives, as is shown by the restrictions placed upon the Reader's former privileges of calling to the Bar and admitting new members. The office still remained, however, the regular mode of access to the Bench at the Middle Temple. The tendency at the close of Elizabeth's reign to treat the duties lightly is still in evidence, for in the third year of King James the Judges considered it necessary to pass censure on

<sup>1</sup> C. 169.

<sup>2</sup> C. 170 (October 12th).

<sup>3</sup> C. 152.

all the four Readers of the preceding Lent Readings.<sup>1</sup> This they did by an order issued under the signature of Sir John Popham, as Chief Justice, advising that each Reader for his default in not holding out his Reading for the full period of three weeks, should be sequestered for a time from the Bench and Commons of his Inn; and adding as a warning for the future :

“ If any Reader shall hereafter offend in not reading the full time of three weekes and full number of twelve Readings att the least in the same three weekes (beinge a single Reader) or nine Readings (beinge a double Reader) Wee doe hereby lett them know that Wee purpose to advise of some stricter course to bee holden for reformation and redresse of suche disorder from henceforthe.” <sup>2</sup>

When later (1614) orders were issued by the King's command for the regulation and government of the Inns of Court, the following further direction was then given regarding Readings :

“ Seaventhly, for that the maintayning of the Readings in the Inns of Court and Chauncery in their due execucion ys a principall meanes to breede and increase learning yt ys ordered that no single Reader in any howse of Court shall give over his Reading before Wednesdaye in the third weeke and that the Readers of every howse of Chauncery shall Reade in person and not by deputy both in Tearme and Vacacion except the deputation by the Benche the Tearme before.” <sup>3</sup>

As the numbers in the Inns of Court were kept up well at this time no difficulty was experienced at the Middle Temple in finding new Readers for the successive appointments to that office, though many members when their turn came to read refused to do so, electing instead to pay the fine exacted for such refusal, and pass to the Ancients' table. Under the date October 30th, 1618, no less than seven members are named

<sup>1</sup> The Readers censured were John Harris (I.T.), Geo. Wrightington (M.T.), Edw. Bartlett (L.I.), and Sir Robt. Hitcham (G.I.). Bartlett had some excuse being sick of a cold; but Hitcham had added the further offence of great excess of hospitality.

<sup>2</sup> Pension Bk. Gray's Inn, I, 169.

<sup>3</sup> C. 80.

as incurring this fine.<sup>1</sup> Although £10 was the usual penalty, the amount varied. Thus, on May 22nd, 1612, when four members had refused the office, the fine imposed in three cases was £5, and in one £40.<sup>2</sup> The member fined £40 petitioned for mitigation of his penalty, and the Masters of the Bench decided that if he paid £20, they would further consider his petition.<sup>3</sup> On another occasion (October 28th, 1614), when again four had refused to read, the fines were £5, £20, £10, and a sum which is left blank.<sup>4</sup> Probably the fine imposed bore some relation to the means of the gentleman refusing the office; where he could well afford the cost, a larger penalty may have been exacted, and a smaller one where bearing the expenses would have been a serious hardship.

In one respect this reign witnessed an important change at the Middle Temple in the practice hitherto followed in the election of Readers. This was the cessation of double reading except where a former Reader read a second time as a Serjeant elect. Thus Master Richard Swaine chosen, on November 3rd, 1609, Reader for the following Lent, appears to be the last instance of a double Reader who was not of the Serjeant's degree.<sup>5</sup> This change was no doubt brought about by the increasing membership of the Inn and the larger number of candidates for the office; since under such conditions, if only one Reader not already a Bencher were nominated yearly, many of the Utter Barristers must have become too old to read before they had any opportunity of doing so.

Cupboardmen were still regularly appointed, but they also came under condemnation for carelessness in the discharge of their office, and on October 15th, 1624, to remedy "the great neglect of the Cupbordmen of late time in giving their attendance," parliament raised the fine for failure to attend in this capacity from 40s. to £5.<sup>6</sup>

As formerly indicated the Minutes of the Benchers do not at either Inn give any account of the happenings at the Readings. Fortunately, however, in the case of one Reading during this reign, the Reader himself has supplied the omission, and left an interesting account of how he performed his duties and the

<sup>1</sup> C. 140. The side note to such fines in the Minutes of Parliament is "pro non legendo."

<sup>2</sup> C. 36.

<sup>3</sup> C. 44.

<sup>4</sup> C. 77.

<sup>5</sup> D. 391. His arms are the earliest of the long series recorded on the panels in the Hall. They are blazoned as Autumn Reader, 1597, on the south side near the bay window.

<sup>6</sup> C. 194.



outlay he incurred. This was the Reading of Sir James Whitelocke, subsequently Serjeant-at-Law, Chief Justice of Chester and a Justice of the King's Bench.<sup>1</sup> He was chosen Reader for the summer of 1619 at the Middle Temple, and in his "Liber Famelicus" (a contemporary diary of events concerning his family and times) has described his experiences in the office.<sup>2</sup> He had served as "cubberdman" in August of 1618, when he states, "I went up to argue at the Reading."<sup>3</sup> From his narrative it appears that it was usual for the Reader's clients and acquaintances to honour the occasion by making him gifts in money or kind to assist him in dispensing the customary hospitality. Indeed, this practice seems to have prevailed to an astonishing extent. Whitelocke, when Cupboardman in the preceding summer, had himself presented Mr. Thomas Forde, the then Reader, with a buck and 14s.,<sup>4</sup> and he gives lists of the presents he himself received as Reader with the names of the donors; and where the gifts were in kind, an appraisement of their values in money.

Among the persons thus honouring him were his old College and Temple friend, Sir Humphrey May, Chancellor of the Duchy of Lancaster, the Bishop of Lincoln (Dr. Geo. Mountaigne, formerly Dean of Westminster), the Earl of Bridgewater, the Earl of Northampton, the Countess of Bedford, the Solicitor-General (Sir Thomas Coventry), and between thirty and forty other Knights. The sums opposite these names vary from 19s. to 3s. 6d. Venison was still the chief article of diet at the Readers' entertainments, for he mentions that he received eighty-three bucks, besides "one stag and a side," and he values these at £41 15s. Other gifts included four Swans, Partridges, Pheasants, Quayles, Salmon, "Trouts," kegs of Sturgeon, wine, fruit, and sugar loaves. A supplemental list of gifts in money includes £22 from my Lord of Durham (Dr. Richard Neil), £11 from Merton College, £10 from Eton College, £5 10s. from St. John's College, Oxford, and like sums from my Lord of Rochester (Dr. Buckridge), and the Attorney-General (Sir Henry Yelverton). The gifts from the above-mentioned Colleges are explained by Whitelocke holding the office of land steward of their respective estates. By Eton College he

<sup>1</sup> Charles I is reported to have said of Whitelocke that he was "a stout wise and learned man and one who knew what belongs to uphold Magistrates in their dignity": see Bulstrode, *Whitelocke's Memorials*, p. 11.

<sup>2</sup> See *Camden Society's Publications*, LXX, 70.

<sup>3</sup> *Ibid.* 62.

<sup>4</sup> *Ibid.*

was also retained as Counsel. Whitelocke was likewise Steward for the Westminster Abbey estates, and the Dean figures prominently in his narrative. He estimates the total cost of his Reading at £370 14s. 9d., and values the gifts he received in kind and money at £130 3s., leaving a net cost to himself of £240 11s. 9d.

It was customary for the Reader elect to hold himself aloof from the social life of the Inn for a time before his Reading commenced, so that he might enter upon his office and pass to the Reader's chair at the Bench table with greater dignity. His Reading began on August 2nd, 1619. But the story is best told in his own words :

"I left the circuit at Bridgenorthe and went not to Stafford and so came to London upon Saturday July 24th to prepare myself toward my Reading; and that week according to the custom, I kept Commons in my lodging and allowed special achates of myne owne.<sup>1</sup> In the end of Trinity Term according to the order of our House I went to all the Judges of our House accompanied withe three of the ancient benchers and mayde them acquainted withe my statute; so I did the benchers in Towne some two or three days before my reading and sent unto them to have their companye.

"Upon Sunday the 1st August I procured the Dean of Westminster [Dr. Townson] to preache withe us. I went to church everye morning and evening the whole reading accompanied withe sutche benchers cubberdmen and senior barristers as wolde goe withe me. I red everye Munday, Wednesday, and Fryday, the two first weekes in August. Upon those days on whiche I red thear was a breakfast in the parliament chamber, not on the others. My Statute was published at the bench table upon Sunday after supper the nighte before my reading began.<sup>2</sup>

"Upon Munday the first day, after breakfast I went to the cubberd and thear, before all the House, toke the othe of supremacy, then went to my place the Northe end of the long table, whear Mr. Palmer, a Londoner born, my sub-lector red

<sup>1</sup> Dishes specially ordered from the cook and not included in the usual Commons.

<sup>2</sup> There is a copy of this Reading in MS. in the Middle Temple Library. The writing, however, is slovenly, and so far has proved undecipherable.

my Statute 21 Henry VIII c. 13.<sup>1</sup> After whiche I began ; first made a speeche and then went to the Statute proposed my divisions and put upon the division of that day ten cases of which the puisne cubberd man chose on[e] and began pro and so contra alternatim. Two benchers appoynted to attend my reading wear Mr. Ford and Mr. Rivers <sup>2</sup> but nether of them came. Mr. Sturley and Mr. Hudson wear withe me alternatim on[e] the on[e] day, the other the other day.

“ The first Fryday after the reading began I and sum of the ancients went to Tuttle <sup>3</sup> and played at bowles according to the ancient custom and ther the Dean of Westminster [Dr. Townson] met us and played withe us.

“ I ended the Fryday senight after I began. Presently after service, I and the benchers went to the cubberd whear I gave them thankes by a speeche, and then was answered by the senior bencher ; then I went to my place, and red my division, and put my cases ; then the two puisnes spoke to a case, I toke it of them, went thoroughe the case, breefly opening the poynts only, whiche being done, I uttered my conceites ; after whiche the third man began another case but after he had put it and before he began to argue it, the senior bencher interrupted him, and tolde me of that case they wold expect my opinion the next Term and so we rose and went to dinner in the parliament chamber. That nighte half a skore of the gentlemen of whiche my under lector was on[e] and two of my stewards <sup>4</sup> that wear under the bar, Mr. Ticheborn, sun and heir to Sir Walter Ticheborn, and Mr. Raynesford sun and heir to Sir Henry Raynesford, Mr. Hoskins, Mr. Borlase, came withe me to Windsor, wheer I layd in a buck and thear they bore my chardges and the next day I came home and sune of them withe me and stayd untill Munday and then went back.”

It may be mentioned here that it was the custom to treat the Reader with much ceremony during the period of his Reading.

<sup>1</sup> Spiritual persons abridged from having pluralities of livings and from taking fernes, etc.

<sup>2</sup> As Assistants. This name should be Ryves or Reeves : see C. 148.

<sup>3</sup> Tothill Fields at Westminster, then popular as a place of recreation.

<sup>4</sup> As to stewards of the Reader's Feast, see *ante*, p. 179. There were four, two of the Bar and two under the Bar.

In 1596 the Judges had thought it necessary to direct that he should not have more than eight serving men to wait upon him.<sup>1</sup> In the Inn he kept a quasi-royal state, taking precedence while he read of all except the Treasurer, and at the conclusion of his term of office, when he again withdrew to a temporary isolation, etiquette required that members of the House should escort him at least some way on his homeward journey. Coke, after his summer Reading in 1592, had been accompanied as far as Romford on his way to his house at Huntingfield, by an admiring cavalcade from the Inner Temple, advertising no doubt the importance of their Fellowship in the honour thus paid to its officer.<sup>2</sup> In the present case Windsor was well on the way to Whitlocke's house at Fawley Court, higher up the Thames.

"My two stewards of the Bar wear Mr. Ward and Mr. Estmond. I sat bare when I red but double Readers sit covered; yet toke place at all other times and at the table of all that came to me. Thear red in Lincolns In Mr. Hindes my ancient, in the Inner House Mr. Heathe my puisne, Recorder of London and in Grayes In, Mr. Jones my puisne common Serjeant of London. I had quesste in my reading the Master of Wardes [Sir Lionel Cranfield] the Master of the Rolles [Sir Julius Cæsar] the Sollicitor [Sir Thomas Coventry] Serjeant Davies the King's Serjeant heer and in Ireland, the Kings Attorney [Sir Henry Yelverton] the Dean of Westminster [Dr. Townson] and divers knightes and men of good qualitie. At the Feast I had the Embassadour of the Low Countryes [Sir Albertus Joachimi] the Archbishop of Canterbury [Dr. Abbot] the Privie Seal [Edward Earl of Worcester] the Archbishop of Spalata, the Bishops of London [King] Rochester [Buckridge] and Llandaff [Carleton] nominated to Chichester, the Lord Norris, the Master of the Wardes, the Dean of Westminster and divers knightes and gentlemen; and at the Feast I admitted the Archbishop of Spalata Dean of Windsor and Master of the Savoy<sup>3</sup> and Sir

<sup>1</sup> A.P. II, 25 (May 23rd).

<sup>2</sup> See Foss, VI, 110 (quoting Coke's *Vade Mecum*).

<sup>3</sup> Marco Antonio de Dominis, Archbishop of Spalatro (State of Venice), came to England in 1616 as a convert from Rome. James made him Dean of Windsor and Master of the Savoy, 1617. A learned but unstable divine, Jesuit bred, he left England again in 1622.



Henry Foliot a great soldiour of Ireland. The Feast was on Tuesday the 10th day of August.

"This reading I admitted into the House my only son Bulstrode Whitelocke being 14 years of age three dayes before."<sup>1</sup>

This account very clearly shows how much ceremonial observances now overshadowed the educational duties of the Reader. The narrator<sup>2</sup> (though a sound lawyer and an accomplished scholar) seems to have been vastly more interested in the number and quality of his guests than in his tutorial duties. As a first-hand description it supplies a remarkable picture of a Reading at an Inn of Court under the Stuarts. The prodigality of the entertaining seems extraordinary and by comparison makes a modern Reader's feast appear a very starved affair. One can only hope if Mr. Whitelocke and his guests consumed, during his term of office, all the eighty-three bucks as well as the other delicacies provided, that they did not suffer worse results than a bad attack of indigestion.<sup>3</sup>

Elections of Associates to the Bench continue in this reign. The first at the Middle Temple was that of Henry Montague, elected, June 3rd, 1603, as Recorder of London.<sup>4</sup> Three years later as Reader he became a complete Bencher. Francis Moore was also chosen Associate in 1603, at a parliament held at Winchester on November 23rd. His election was at the desire of the Lord Chancellor (Lord Ellesmere) and the Lord Chief Justice of England (Sir John Popham). In 1607, he likewise as Reader became a complete Bencher.<sup>5</sup> In February, 1603, Thomas Fleetwood, Attorney to the Prince, was so elected;<sup>6</sup> William Mann on October 28th, 1608,<sup>7</sup> and Thomas Crumpton;

<sup>1</sup> Future Commissioner of the Great Seal. The entry is—"Nono die Augusti anno predicto; Mr. Bulstrode Whitlock filius et heres apparens Jacobi Whitlock de Fawley Court in Com. Buck. arm. admissus est in Societatem Medii Templi Specialiter et obligatur unacum Mag<sup>tris</sup>—et Georgio Blincoe gen. et dat pro fine nihil quia pater suus est unus Magistrorum de Banco hujus hospitii et modo lectoris hospitii prædicti." (Signed) Jacobus Whitelocke, Lector; Gge. Shurley; Richard Hadsor. C. 160.

<sup>2</sup> Sir James Whitelocke's arms (1st and 4th azure a chevron engrailed between 3 falcons or; 2nd and 3rd on a bend gules 3 stags heads cabossed or) are on a panel in the Hall as Reader and in the top row of the south bay window as Judge.

<sup>3</sup> These Feasts attracted other guests than those invited by the Reader as appears by an entry in the Inner Temple Accounts for the year 1615: "Item paid to a ratt catcher for killinge the ratts and mise in the Hall against the sommer readinge by Mr. Readers comandment—2/6"; Gen. Account Book, I, 95.

<sup>4</sup> D. 322.

<sup>5</sup> D. 323, 356.

<sup>6</sup> D. 324.

<sup>7</sup> D. 374.

as "Pregnothary" in the Court of Common Pleas on May 26th, 1609.<sup>1</sup> Other elections followed, which included Gregory Donhault, a Master in Chancery, January 29th, 1612; John Goldesburgh, second Prothonotary of the Court of Common Pleas, November 26th, 1613;<sup>2</sup> Sydney Montague, Master of the Court of Requests (extraordinary), February 9th, 1615; and Richard Moore, Master in Chancery (extraordinary), on April 19th, 1616.<sup>3</sup> About this time the payment made by an Associate on his election was raised from £10 to 100 marks (£66 13s. 4d).<sup>4</sup> The next election was on January 24th, 1616, when Walter Pye, subsequently Reader and Attorney of the Court of Wards, was made Associate;<sup>5</sup> while in October, 1619, Sir Benjamin Rudierd, as Surveyor of that Court, was also so elected, but "without paying any fyne for such associacon any former order of the house to the contrary notwithstanding."<sup>6</sup>

Special admissions *honoris causa* now become very numerous as will appear by the following list of names: Lord Henry Howard, Warden of the Cinq Ports (later Earl of Northampton), on February 2nd, 1603, and Gray, fifth Lord Chandos of Sudeley, August 9th, 1604;<sup>7</sup> Sir Robert Stewart, brother of the Earl of Orkney, Peregrine Bartue, brother of Lord Willoughby Beke and Ersbye, Sir Thomas Edmonds (Ambassador at Brussels), Sir John Gilbert, and Sir John Skeene, Master or Keeper of the Rolls in Scotland, on February 27th, 1604;<sup>8</sup> Sir Jerome Bowes (Ambassador to Russia), Sir William Hericke, and Sir John Spilman, August 12th, 1606;<sup>9</sup> James Montague (Bishop of Bath and Wells) and John Buckridge (President of St. John's College, Oxford, and later Bishop successively of Rochester and Ely) on October 28th, 1608;<sup>10</sup> Lewis, Duke of Lennox, K.G. (later Duke of Gordon), Sir James Hayes (later Earl of Carlisle), Sir David Murray, Sir James Kennedy, Sir Robert Nudigate, and Jas. Hamilton, Esq., on March 16th, 1608;<sup>11</sup> William Lord Paget and Sir Charles Cornwallis (Treasurer of Prince Henry's Household) on February 20th, 1610;<sup>12</sup> Sir Robert Karr, Viscount Rochester, the favourite of James I, on October 25th, 1611;<sup>13</sup> John Gordon, Dean of Salisbury, and George Wethered, Secretary to Lord Sheffield (President of the Council of the North), in August, 1612;<sup>14</sup> Inigo Jones in the following

<sup>1</sup> D. 385.<sup>2</sup> C. 46, 63.<sup>3</sup> C. 98, 102.<sup>4</sup> C. 104 (May 10th, 1616), "curraunt money."<sup>5</sup> C. 113, 124.<sup>6</sup> C. 150.<sup>7</sup> D. 324, 328.<sup>8</sup> D. 333.<sup>9</sup> D. 347.<sup>10</sup> D. 374.<sup>11</sup> D. 382.<sup>12</sup> C. 19.<sup>13</sup> C. 26.<sup>14</sup> C. 39.

February;<sup>1</sup> George Montaigne, Dean of Westminster, on August 13th, 1613; Sir Richard Preston (Lord Dingwell) and Sir Edward Conway, governor (Locumtenens) of Brille (later Viscount Conway), on March 25th, 1614; George Montgomery, Dean of Norwich and Bishop of Meath, and Signior Antonio Foscarini, Venetian Ambassador, in August, 1614;<sup>2</sup> Lord John Kennedy, fifth Earl of Cassilis, and Algernon Lord Percy (later tenth Earl of Northumberland), in August, 1615;<sup>3</sup> George Villiers, Marquis of Buckingham, Sir John and Sir Edward Villiers (his brother and half-brother), Sir Lionel Cranfield (Master of Requests), Sir William Seymour (later Marquis of Hertford), and Sir Walter Devereux, in February and March, 1617.<sup>4</sup> Besides the above, and in further proof of the cordial relations which existed between the Middle Temple and the City Corporation, may be mentioned three Sheriffs of London admitted as follows: Sir Roger Jones, February 17th, 1604; Sir Thomas Hayes, August 11th, 1605;<sup>5</sup> and Oliver Styles, Esq., February 25th, 1607;<sup>6</sup> an ex-Lord Mayor, Sir Thomas Lowe (at one time Member for the City and first Governor of the Levant Company), on August 11th, 1614;<sup>7</sup> and six Aldermen, Sir John Jolles, August 11th, 1605,<sup>8</sup> and Sir Henry Rowe, Sir Thomas Campbell, Sir John Swynarton, Sir Clement Scudamore, and Geoffrey Ellwys, Esq., August 3rd, 1606.<sup>9</sup>

At the Inner Temple only two Associates to the Bench seem to have been elected during this reign, Charles Cæsar and Thomas Fanshawe, both on January 24th, 1612.<sup>10</sup> The former, who was the eldest son of Sir Julius Cæsar (Chancellor of the Exchequer), was knighted soon after and made a complete Bencher with discharge from reading. Appointed a Master in Chancery, he subsequently became, like his father, Master of the Rolls.<sup>11</sup> The latter, a son of Thomas Fanshawe, Remembrancer of the Exchequer, was at this time Clerk of the Crown in the King's Bench. Eleven years later he also received the honour of knighthood.<sup>12</sup>

Admissions *honoris causa* were also numerous during this reign at the Inner Temple. These included some distinguished ecclesiastics, Dr. Richard Vaughan, Bishop of London, in February, 1604; Gervase Babington, Bishop of Worcester, Martin Heton, Bishop of Ely, and John Jeggon, Bishop of

<sup>1</sup> C. 48.

<sup>2</sup> C. 57, 69, 76.

<sup>3</sup> C. 92.

<sup>4</sup> C. 131, 132.

<sup>5</sup> D. 333, 337.

<sup>6</sup> D. 365.

<sup>7</sup> C. 76.

<sup>8</sup> D. 337.

<sup>9</sup> D. 347.

<sup>10</sup> A.P. II, 101.

<sup>11</sup> *Ibid.*, 104; Foss, VI, 272-274.

<sup>12</sup> D.N.B. XVIII, 190.

Norwich, in May, 1606; Richard Parry, Bishop of St. Asaph, in April, 1607; and George Abbot as Archbishop of Canterbury, on April 14th, 1611.<sup>1</sup> Among laymen so admitted were Thomas Howard, Earl of Arundel and Surrey, Henry de Vere, Earl of Guyenne and Oxford, Henry Howard, Earl of Northampton, Robert Devereux, Earl of Essex, Thomas West, Lord Delaware, Sir John Harrington, Sir William Constable, and Sir Robert Rich (later Earl of Warwick), in February, 1604;<sup>2</sup> Philip Lord Herbert of Shurland and Earl of Montgomery, Edward Lord Abergavenny, John Lord Hunsdon, Sir George Manners, Sir John Selbye, and Henry Carey, on May 11th, 1606;<sup>3</sup> Sir John Payton, Sir Robert Crane, Sir Jervase Clyfton, Sir Thomas Howard, and Sir William Morris, in April, 1607;<sup>4</sup> Sir Henry Rich (son of Lord Rich) and Sir William Maynard, in April, 1611;<sup>5</sup> and William Lord Ross, in April, 1616.<sup>6</sup> Scotsmen were also thus honoured at the Inner Temple, viz. William Murrey Lord Aberkerny, Sir George Douglas, Sir John Ramsay, David Murray, Esq., of the Prince's Bedchamber, and George Ramsay of the Prince's Horse, all admitted in February, 1604.<sup>7</sup>

The old difficulty in getting prompt payment for Commons still continues. There are many references to this in the Minutes of parliament. In November, 1609, more than £316 was thus owing at the Middle Temple, and it was ordered that those failing to pay their arrears should be proclaimed at the Cupboard, lose their chambers, and have their bonds put in suit; where defaulters had no chambers, their sureties were to be held responsible and forfeit theirs if the debt was not paid within one month.<sup>8</sup> Later, in April, 1613, it was ordered that the name of no student should be offered to the Masters of the Bench for call to the Bar who owed above three weeks' Commons.<sup>9</sup> Notwithstanding these measures, the arrears increased, so that on June 23rd, 1615, the debt to the Steward for unpaid Commons was £360 or thereabouts, and a year later somewhat in excess of that sum.<sup>10</sup> The remedy was now tried of stopping the supply of Commons to those in default, until the debt was discharged.<sup>11</sup> But this did not cure the evil, and the order of the late Queen's reign was revived, which required the Steward to proclaim the defaulters at the Cupboard in Hall at dinner-

<sup>1</sup> A.P. II, 53, 58, 67, 89.

<sup>4</sup> *Ibid.* 67.

<sup>7</sup> *Ibid.* 53.

<sup>10</sup> C. 90, 106.

<sup>5</sup> *Ibid.* 89.

<sup>8</sup> D. 392.

<sup>11</sup> C. 107.

<sup>2</sup> *Ibid.* 53.

<sup>3</sup> *Ibid.* 58.

<sup>6</sup> *Ibid.* 119.

<sup>9</sup> C. 49.



time.<sup>1</sup> This, however, encouraged another practice of which the Benchers strongly disapproved, viz. the taking of meals privately in chambers instead of in the Hall ; a proceeding which necessarily threw a greater burden of expense upon members faithful to the ancient use. In particular, complaint was made that the gentlemen were absenting themselves on the feasts of the Purification and All Saints, when it was the custom to entertain Judges, Serjeants, and other honourable persons formerly members of the Inn, which left the whole burden of such hospitality to be borne by the few then in Commons. Accordingly, it was ordered (November 23rd, 1621) that every fellow having a chamber or part of a chamber, and not being in Commons on those occasions, should be cast into half Commons for those weeks.<sup>2</sup> This direction to the Steward was soon followed (May 10th, 1622) by a more stringent order of a like kind, that every gentleman of the House, Utter Barrister, or other lying in a chamber or part of a chamber and not being in Commons, should be continually cast into whole Commons, both in Vacation and Term times, so long as he should for the more part lie in such chamber or part of a chamber ; the Benchers declaring that the neglect of many to keep Commons, and the consequently enhanced cost to those in Commons, was tending to the dissolution of the Fellowship.<sup>3</sup>

On January 24th, 1622, expulsion from the Society was decreed as an alternative penalty for non-payment of Commons, where neither the debtor nor his sureties had chambers in the Inn which could be seized.<sup>4</sup> But, none the less, the old trouble continued, and in the last year of King James the seizing of Chambers and the putting of bonds in suit was still being ordered.<sup>5</sup> Difficulty in securing prompt payment of Commons was likewise being encountered in the other Inns of Court.<sup>6</sup> Probably unless payment in advance were insisted upon, the trouble was ineradicable, and the most the Benchers could hope to achieve was to bring the arrears down from time to time to a reasonable figure.

At the Inner Temple also the fashion of taking meals privately in chambers instead of in the Hall was on the increase. The Benchers there are found on June 23rd, 1622, complaining of this as calculated to cause insufferable damage and subvert

<sup>1</sup> C. 126 (February 9th, 24 Eliz. 1581).

<sup>2</sup> C. 172.      <sup>3</sup> C. 174.

<sup>4</sup> C. 181, 182.

<sup>5</sup> C. 198 (January 28th, 1624).

<sup>6</sup> See Black Bks. II, 151, 250 ; Pension Bk. I, 263.

the orders and government of the Society. They accordingly revived all former orders against the practice—making an exception only in favour of Benchers, Readers in Chancery, and sick persons—and prohibited beer or green pots being sent out of the buttery, or meat taken from the kitchen, to any chambers in the House. Further, to prevent evasions of their order, they enacted penalties on servants of the Society disobeying it, even to dismissal for a third offence.

The difference already noticed in the keeping of Christmas at the two Temple Inns continues. The Middle Temple practice in this reign being to keep it solemnly, not grandly, and with no appointments of Christmas officers by parliament; whereas at the Inner Temple appointments are regularly minuted to the offices of Steward, Marshal, and Butler for a Grand Christmas. It is uncertain what the effect of these appointments was. The same persons are constantly reappointed to the same offices and often are fined for not appearing. The most remarkable case is that of John Warneford, who joined the Inn in 1561. On November 3rd, 1600, he was chosen one of the Butlers for Christmas. In the years 1603 and 1607 there was no celebration on account of sickness, but with the exception of those years he seems to have been regularly reappointed to this office down to the year 1611.<sup>2</sup> In the preceding year he had incurred a fine with other Christmas officers for non-appearance, and on December 9th, 1611, he addressed a letter from his home in the country (Hankerton) informing the Benchers that he hoped to be excused serving in the office of Butler, as he was now not less than three score and ten years of age, as the books of the House would testify, for he was “admitted (as a poore fellow of the House) in the very last Grand Cristmas there kept now fyftie years synce or neere thereabout.” He urged that he had served his Sovereign and Country as a poor Justice of Peace and Quorum there forty years, and had not given up keeping of a poor house one day all that space, and that now his age might make him justly say, *Non video pure, mihi nil sapit, audio dure, deficit olfactus sum, sequius ad omnia factus*: “For I speake it unfeynedly that if I should take the journey and place and the execution thereof upon me hit would surely shorten my dayes.”<sup>3</sup> Upon this woeful letter he was excused his fine. But neverthe-

<sup>1</sup> A.P. II, 144B; I.T.R. II, 131; cf. (M.T.) C. 175.

<sup>2</sup> A.P. II, 42, 45, 52A, 56, 64, 68, 75, 80, 87.

<sup>3</sup> *Ibid.* 97; I.T.R. II, 64, 65. Sequius appears in the record as “sequis,” but that, as pointed out by Mr. Inderwick, is evidently a slip.

less he continued to be reappointed a Butler for Christmas down to and including the year 1624.<sup>1</sup> By which date he must have been well over eighty, and quite incapable of executing the office. On such facts it is difficult to avoid the conclusion that the appointments to these offices for Christmas had become chiefly a matter of form and were only made to perpetuate an old tradition. It will be noticed Warneford alleged in his letter that no Grand Christmas had been held in the Inn for fifty years. His words the "very last" probably refer to the celebration of 1561, when Lord Robert Dudley acted the part of the Prince Palaphilos, and which in splendour and extravagance no doubt far exceeded any celebration since held. But having regard to the continual appointments to offices for a Grand Christmas recorded in the Minutes, it is difficult to understand what the true position was. Mr. Inderwick's interesting Introductions to the published version of the Records of the Inn do not throw any light upon the matter, for although suggesting the old Grand Christmas celebrations had ceased, he gives no explanation of the continued appointment of Grand Christmas officers by parliament.

Whatever form the keeping of Christmas took at the Inner Temple in this reign, its observance seems to have lasted from the Monday before St. Thomas's Day (December 21st) till Saturday in the week after the Epiphany (January 6th). In Tudor times gambling as a form of recreation at the Inns of Court had been discouraged and orders passed for its suppression. Under the Stuarts other views prevailed, and although the Bench of the Middle Temple Society, on November 24th, 1609, made a stringent order forbidding all dice play during the Christmas Vacation of that year,<sup>2</sup> this seems to have been only a spasmodic effort, for the order was not repeated. Two years earlier the Inner Temple Benchers, content to restrict rather than prohibit such amusements, had made the following order :

"Noe playe or gamynge shalbe used permitted or suffered in the hall either uppon Christmas daie or uppon any Sundaie during the tyme of Christmas untill after supper of the said daies and that noe playe or gaminge be used or suffered uppon any

<sup>1</sup> See A.P. II, 100, 105, 111, 117, 122, 126, 131, 135, 140, 144A, 147, and 151.

<sup>2</sup> Recorded in Latin as follows : "Et ulterius ordinatum est per assensum omnium Magistrorum de Banco quod ludus alearum Anglice dice playe totaliter amoveat durante tota vacacione vulgariter vocat, Christmas tyme"; D, 394.

other daie in the tyme of devine service uppon or in the tyme of the Sermon uppon payne that every person offending herein shalbe put oute of the house." <sup>1</sup>

At the same time the Lord of Misrule once so popular as a Christmas diversion was also banned :

"Noe such Lord or any other in such nature shalbe hereafter elected or suffered to goe abroad in the night tyme or at any other tyme in that nature uppon payne of puttinge oute of the house of all such as shall offend herein." <sup>2</sup>

The orders of King James to the four Inns of Court, issued in 1614, included the following direction with regard to Christmas :

"Eightly, for that the disorders in Christmas tyme maye both infect the mynde and prejudice the estates and fortunes of the younger gentlemen in the same Societies yt ys therefore ordered that there shalbe Comons of the howse kept in every howse of Court during the Christmas and that none shall playe in the severall halls at the dice except he be a gentleman of the same Society and in Comons and the benyfytt of the box to go to the Butlers of the howse respectively." <sup>3</sup>

Thus in contrast with the Tudor practice dicing within certain limits was recognized in the highest quarter as a proper form of amusement for young lawyers at Christmas time, and judging by the information afforded by the Accounts of the Inner Temple Society for this year, it seems there were many gentlemen of the Inns prepared to follow the royal lead, for under the heading "Necessaries" the Christmas Accounts include 34 dozen dice and  $12\frac{1}{2}$  dozen cards.<sup>4</sup> It was not to be expected that where dice play received the highest sanction other forms of gambling would be successfully excluded. The old game of slipgrote or shove board, at any rate, seems to have established itself again as a favourite amusement, for the general accounts of the Inn show an item of 3s. "paid to the joyner for mending shoffleboard table."<sup>5</sup> The Benchers had indeed travelled far from the opinions entertained by their predecessors in the days

<sup>1</sup> A.P. II, 70.

<sup>4</sup> I.T.R. II, 87.

<sup>2</sup> *Ibid.* 71.

<sup>5</sup> Gen. Acct. Bk. I, 82.

<sup>3</sup> C. 80.



of Henry VIII.<sup>1</sup> Later it will be found that the Christmas gamesters with strange incongruity varied their entertainments by inviting learned divines to preach to them in the Temple Church during that vacation, whose reward for so doing formed a regular item in the Christmas expenses.

Theatrical representations may also have formed part of the Christmas festivities, but the recognized days for these, All Saints or All Hallows and Candlemas Day (November 1st and February 2nd), were outside the time of Christmas as now limited. On these days plays were regularly performed at the Inner Temple, such sums as £5, £6 13s. 4d., and later £7 being a usual outlay for this.<sup>2</sup> That the plays acted did not always meet with the approval of the ruling authority is shown by an order of February, 1610, which directed (on account of the "desorder and scurrillicities" they brought into the House) that from henceforth plays should be "utterly taken awaie and abolysed."<sup>3</sup> This, however, proved a council of perfection which evidently could not be enforced, for on November 24th following it was further resolved :

"Whereas of late yeares uppon the two festivall dayes of All Saints and Candlemasse playes have been used after dinner for recreacon which have lately been layd downe by order in parliament, it is now ordered that the same order shall henceforth stand repealed."<sup>4</sup>

Sometimes the recreation took the form of a Masque performed by the members of the Inn. One such entertainment which was particularly successful was given at the Inner Temple, on January 13th, 1614. The words of this Masque were composed by William Browne, the author of *Britannia's Pastorals*, an Exeter College man, who was himself a member of the Inn. The subject was the adventure of Ulysses on the *Ææan* Island of Circe, where by enchantment she transformed his companions into swine, till Ulysses, with the aid of Hermes, procured their release from the magic spell. The piece was performed with great spirit, many guests being invited to behold it, including ladies, who, after the ill-starred companions had been restored to their human shape, joined with them in the dancing of

<sup>1</sup> See *ante*, p. 136.

<sup>2</sup> Gen. Acct. Bk. I, 13, 23, 64, 72, 91-92, 146, 154, 177.

<sup>3</sup> A.P. II, 89.

<sup>4</sup> *Ibid.* 95.

"galliards corantoës and brawls." The crush of spectators was so great that many swarmed up on the outside of windows to gain a view of the performance, thereby causing some structural damage, as appears by a petition of the Chief Cook sixteen months later complaining of his great charges in repairing a chamber and chimney in the cloisters "broken down by such as climbed upp att the windowes of the Hall to see the Maske."<sup>1</sup>

Another performance of a like kind though of less merit was given by gentlemen of the Inner Temple in 1619. This was the "Masque of Heroes" by Thomas Middleton; the subject being the passing of the Old Year and the coming of the New.<sup>2</sup>

In the absence of any Account Books for the Middle Temple during this period, it is not possible to speak with certainty of the Christmas diversions there. No doubt, in view of the royal orders of 1614 sanctioning gaming at Christmas, dicing was now also indulged in by the junior members of that Society. Music was certainly provided on a moderate scale, a small allowance being regularly made by the Benchers for the purpose, and this may imply some dancing; but it was not the practice to invite ladies or any persons not members of the House to be present at a solemn Christmas. In the Minutes a sum (generally £3) is allowed for officers' Commons, which no doubt means the servants of the Society in attendance. Though Grand Christmas officers were no longer appointed the members keeping Christmas privately seem to have elected officials of their own. From outside sources of information it appears that a "Lieutenant of the Temple" was sometimes chosen, probably in imitation of the Lieutenant of the Tower.<sup>3</sup>

It is now accepted as beyond dispute that there is absolute equality between the four Inns of Court. In former times, however, questions of precedence occasionally arose between the two Societies of the Temple, the Benchers of the Inner Temple sometimes adopting an attitude regarded by the Middle Inn as implying a claim to superiority. There was one such episode in the reign of King James I which concerned the services

<sup>1</sup> A.P. II, 119; I.T.R. II, pp. xlii and 95.

<sup>2</sup> I.T.R. II, Intro. xlv, xlv.

<sup>3</sup> The following order made at the Middle Temple for the observance of the Christmas of 1619 may be cited as typical of the practice in this reign: "Ad hoc parliamentum ordinatum est quod festum natalis Domini solemniter et non grandi modo celebrabitur et quod communie continuabuntur usque ad proximum terminum et allocat: his comorantibus una biga carbonum et quadraginta solidi pro salario musicorum antehac consuet. et præterea allocat: pro communiis officiariorum £3": C, 153.

in the Temple Church. It resulted in an appeal to the Judges, and the circumstances are reported in the Minutes of the Middle Temple Society. The clergyman who presided over the church at this time was the Rev. Thomas Masters.<sup>1</sup> He had been appointed Master of the Temple in 1601, and held the office till his death in the year 1628. The stipend he received from the Crown and the two Societies under the letters patent of King James, being insufficient for his maintenance, was supplemented by a voluntary levy upon the members of the two Inns. In the year 1620, however, owing to dissatisfaction with his conduct of the Communion Service, the gentlemen of the Middle Temple decided to withhold their contributions. With these introductory observations the Minute Book may be left to speak for itself.

May 18th, 1620. "Whereas a benevolence of five pence<sup>2</sup> in Michaelmas Terme and fower pence everie other Terme heretofore given to Mr. Masters hath byn withdrawne by this house for that Mr. Masters in ministeringe the Communion in the Temple Church hath of late given some kinde of precedence to the Inner Temple in beginninge to minister the sacrament firste to those of the Inner Temple, whereas yt hath byn allwaies heretofore ministered *alternis vicibus*, sometimes to beginne with the one and sometimes with the other, both the Temples being one congregation of gentlemen betweene whose houses there was never anye precedence in anythinge and uppon their withdrawinge the sayd benevolence Mr. Masters by petition exhibited to Sir Henrie Montague Lord Cheife Justice of the King's Benche prayed releife whereupon his Lordshippe callinge to him the Lord Cheife Baron [Sir Laurence Tanfield] and Mr. Baron Bromley whoe have byn of the Inner Temple and Mr. Justice Doddrige<sup>3</sup> whoe hath byn of this house and alsoe sundrie Benchers of either of the Temples to heare and determine this difference did heare the cause and his Lordshippe and Mr. Justice Doddridge called to minde that whilst they were of this house the Master of the Temple did as usuallie beginne to minister

<sup>1</sup> See *ante*, p. 199.

<sup>2</sup> Per member.

<sup>3</sup> "A grave and very learned Judge and excellent scholar, lawyer and orator": Whitelocke's Memorials, p. 11.

the Communion at this Middle Temple, as he did at the Inner Temple both in the times of Mr. Alvey, Mr. Hooker, and Doctor Balgay <sup>1</sup> and that Mr. Masters himselfe for some time did the like the which all the Benchers of this house that were then present did alsoe remember and affirme of their owne knowledges Alsoe his Lordshipp and the Judges aforesayd held yt not fitt to allowe to anye Inne of Court anye precedence or pre-eminence th' one above the other all the Innes of Court beinge in all poynts equall which the Benchers of the Inner Temple themselves did acknowledge sayinge they claymed noe precedence of houses onlie they pretended to have the Deane's side of the church. Nevertheless because the Middle Temple did not have present such ancient witnesses as they sayd would prove the ministracion of the communion to have byn equallie dealt in ancient time without anye precedence given to either side therefore the Judges thought meete to settle some present course for the prevention of anye unkindnes that might arise betweene those twoe great houses of Court but without prejudice to the righte of either side and in that regarde they did move the Benchers there present of either house that untill this controversie should be otherwise determined Mr. Masters and his curate or the preacher at the celebration of the Holie Communion should take bread togeather and the Master to give the bread to the Inner Temple and the curate or preacher at the same instant to give the bread to the Middle Temple And that done then the Master to give the wine to the Middle Temple and the curate or preacher at the same instante to give the wine to the Inner Temple And this course to holde *alternis vicibus* betweene the twoe houses till other course shalbe taken in this behalfe." <sup>2</sup>

Thus the difference for the time being was amicably settled and the income of Mr. Masters replenished once more by the contributions of the Middle Temple Society.

The round caps which members of the Inns were expected to wear in the church during divine service and in the Halls at meal-times were unpopular with the younger members, who

<sup>1</sup> Richard Alvey was Master 1560-85; Richard Hooker, 1585-91; and Nicholas Balgay, 1591-1601,

<sup>2</sup> C, 157,



preferred instead to attend in hats, which often assumed extravagant and menacing proportions. Hence arose frequent disputes with the ruling authorities, for the Benchers in both Inns were active in suppressing this fancy. In June, 1607, a fine of 10s. was imposed upon any Utter Barrister coming into the Middle Temple Hall in vacation time at breakfast, dinner, or supper with his hat, and a duty was laid upon the Utter Barristers of the Inn to punish by fine or putting out of Commons any gentleman under the Bar who so transgressed.<sup>1</sup> Next year this prohibition was renewed, the Benchers requiring

“all gentlemen as well of the Barr as under the barr to forbear wearing of hatts in the church and hall as well in the vacacons as in the Tearmes beeing an auncient order observed both in this Howse and in the Inner Temple.”<sup>2</sup>

This habit was also condemned at the Inner Temple by an order made there on April 14th, 1611, as follows :

“Noe fellowe of this howse shall come into the hall of this howse or the Temple Church in theire hatts but in their cappes according to the antient orders of this howse upon paine of forfeytinge for everie defalte vi<sup>s</sup> viii<sup>d</sup>.”<sup>3</sup>

Later, in May, 1617, there was further trouble over this matter at the Middle Temple, and a determined attempt to flout the authority of the Bench, as appears by the following Minute of the 30th of that month :

“Whereas of late theare hath bynn a greate conspiracy of and among dyvers gentlemen of this Fellowship to breake the auncient custom of wearing of capps in the Temple hall at dynners, suppers and breakfasts and in the Temple Church in prayer tymes and sermon tymes both in the Tearme tymes and in the vacacons and in the tyme of Reading and to bring the same their purpose to passe dyvers gentlemen of this Societie beeing publickly admonished to the contrary by the Masters of the Bench at the Cubbord have notwithstanding come in hatts into the Temple hall<sup>4</sup> at breakfast dynner and supper and also into the Temple Church in the tyme of divine service contrary

<sup>1</sup> D. 358.

<sup>2</sup> D. 371.

<sup>3</sup> A.P. II, 90.

<sup>4</sup> In the original record “church” appears here by mistake,

to the auncient orders of this howse And because they could not be suffered to weare their hatts in the Temple hall therefore a greate multitude of them have putt themselves owt of Comons and dyett themselves som in their chambers and others at victualing howses in the Towne Yt ys at this parliament ordered and agreed by the generall consent of the Masters of the Bench assembled that none of those gentlemen who have so putt themselves owt of Comons whose names are subscribed under this order shal be admytted to come agayne into Comons in the Temple untill they have first submytted themselves to the Masters of the Bench according to the auncient orders of this howse and so shall obtayne their good wills to come into Comons againe and all the chambers of such of the same gentlemen as shall not so submytt themselves before the ende of the first week in the nexte Terme shal be seized forfeited and disposed of to the use of this howse : ”

the names of forty-six offenders follow.<sup>1</sup>

While the Benchers themselves maintained discipline during the Term time the duty of enforcing the rules of the Society in vacations rested largely on the Masters of the Utter Bar. Hence the parliament which had dealt with the above matter further enacted that if any Utter Barristers being in Commons did suffer any gentlemen to wear hats in the church or Hall during vacation times without warning them out of Commons for such offence, they should endure such censure as the Masters of the Bench in Term time might please to impose upon them for such connivance.<sup>2</sup>

On June 4th, 1619, the persistence of the wrongdoers again came under consideration, and it is recorded that the Masters of the Bar having refused to warn offenders to forbear wearing their hats in the Hall and having alleged in contempt of the government of the Society that this was work for the Butler, and not for them, were fined 40s. each for such contempt.<sup>3</sup>

Meanwhile the unquiet spirit of the Lord of Misrule which

<sup>1</sup> C. 118. The names are set out in M.T.R. 617.

<sup>2</sup> C. 119.

<sup>3</sup> C. 147. Cf. the orders about caps and boots at Gray's Inn (November 27th, 1609). There, an exception was made in the cases of the Master of Requests and the King's Solicitor, relieving them from the wearing of caps in Hall. Other members were also so excused for twelve days at Christmas: Pension Bk. I, 189.

had seemed effectually laid to rest by the disciplinary measures of 1592, and against which the Inner Temple Bench had also legislated on November 26th, 1607,<sup>1</sup> had again come to life in the Middle Temple. At the close of the year 1613 four junior members of the Inn ventured to set up one of their number in this capacity, breaking open chamber doors both within and without the House, and also making outcries in the night, with striking up of drums and blowing of horns, not only in the House but outside in the streets. For this offence they were fined sums varying from £6 13s. 4*d.* to five marks (£3 6s. 8*d.*), but not expelled because they alleged ("pretended," the record says) they did not know of the former enactments forbidding this form of diversion.<sup>2</sup> A fortnight later, however, on the mediation of Sir Edward Phelips (Master of the Rolls), and after no doubt due submission to the Bench, they were pardoned the fines so imposed upon them.<sup>3</sup>

Even the Bench seems at this time to have been infected with the prevailing spirit of disorder, for on May 25th, 1614, at the Middle Temple, Master Robert Smyth was "sequestred" from the Bench and deprived of his voice in government, until he should give satisfaction and publicly acknowledge in the parliament chamber the wrong he had done by publicly in Hall at the Lent Reader's Feast, abusing Master Richardson, the Reader of Lincoln's Inn, openly scandalizing him in his profession with scornful speeches, and likewise abusing the Masters of the Bench of the Middle Temple, three in particular and all in general, saying that he well knew their malice towards him with many other reproachful and scornful speeches.<sup>4</sup>

Further instances of disorder, arising chiefly out of quarrels between members, might be cited about this time.<sup>5</sup> In one of these a challenge to a duel resulted. Whereupon the Benchers promptly intervened, considering such a proceeding contrary to peaceable government, and forced a reconciliation between the parties, which was apparently effectual in restoring harmony.<sup>6</sup>

Information as to the hours at which the principal meals of the day were taken at this time comes from an entry in the Inner Temple Records for the year 1621, which relates to the Christmas Vacation, and is as follows :

"That the horne may blowe for dinner before eleaven of the clocke and before sixe for supper and that as sone as there

<sup>1</sup> A.P. II, 70.

<sup>2</sup> C. 66 (January 28th).

<sup>3</sup> C. 66, 67 (February 11th).

<sup>4</sup> C. 71.

<sup>5</sup> C. 114, 176, 177.

<sup>6</sup> C. 42.

are three messes in the hall then the Buttlers to serve out ; And att the serving of the first messe an houre glasse to bee sett uppe and such gentlemen as come not into the hall before itt bee runne out to dine and suppe in the parliament house." <sup>1</sup>

The horn is still blown in the Middle Temple to remind members of the approaching dinner hour, but the sister Society, whose Records thus contain the earliest known reference to this ancient practice, has long abandoned the custom.<sup>2</sup>

Notwithstanding the opinion expressed in the King's orders of 1614, that an excessive number of lawyers resulted in the "multiplying of needles sutes" and the direction then given that not more than eight should be called by any Inn of Court in any one year,<sup>3</sup> there was a great increase in the numbers called to the degree of the Utter Bar in the latter half of the reign of King James I. Thus at the Middle Temple in February, 1615, 27 were called and confirmed ; 15 in February, 1616, and 12 in June, 1618 ; 19 in May, 1619 ; 15 in June, 1620 ; 16 in November, 1621, and 21 in May, 1623 ; or an average (without including three other single calls) of 15 per annum over the eight years.<sup>4</sup> While at the Inner Temple, where the Benchers on November 23rd, 1606, had resolved not to call more than 8 in any one year,<sup>5</sup> 26 were called on October 15th, 1620, and 7 more in the following November. In 1621 and 1622 the numbers were only 3 and 6 respectively ; but on November 23rd, 1623, as many as 15 were called and a like number on May 21st, 1626.<sup>6</sup>

In view of the spirit of unrest and insubordination which so often disturbed the harmony of the Middle Temple Society in this reign, it is pleasing to be able to refer to one incident of a very different kind illustrative of the affectionate regard entertained for the old House by one of its members. Edward Ayleworth, "one of the most ancient Masters of the Utter Bar" at the time of his decease in December, 1624, had occupied

<sup>1</sup> Christmas Acct. Bk. Orders, 1621.

<sup>2</sup> The use of a horn for this purpose has been explained on the ground that a bell would not have been heard across the Thames by young Templars out coursing hares : "Huntynge of the hare with grehoundes is a ryght good solace for men that be studious," wrote Sir Thomas Elyot in his *Boke named the Governour* (Edit. 1544), I, c. 18, fo. 60.

<sup>3</sup> C. 80.

<sup>4</sup> C. 98, 114, 136, 146, 160, 173, 184.

<sup>5</sup> A.P. II, 65.

<sup>6</sup> A.P. II, 140, 143, 146, 150, 156.



chambers in the Inn for more than half a century. Four times appointed Cupboardman, he was chosen Reader on October 25th, 1594, but refused the office and incurred a fine of £20.<sup>1</sup> He thus never attained the dignity of the Bench. To the last he retained his chamber in the Inn, and by his will bequeathed a cup of gilt plate to the Society in token of his long membership of and affection for the House. This cup cannot now be traced, but the words of his bequest, which he directed to be copied and placed within it, have been entered on a Minute of parliament, dated January 27th, 1625, and read as follows :

“ Amonge all the persons and places where I have bin knowne and beloved I maye nott forgett the place of my first educacon, to whome I accompte next under God my poore estate most bound unto. I meane that worthye and honorable Society of the Middle Temple where I have bin a longe resident and well beloved and their loves to me not lost, being the most auncientest nowe of any in that Howse left alive to my knowledge. I doe nowe with my last breath give to the Benchers there nowe and to come of my nurseing Mother one cupp of guilt plate to the value of ten pounds for a signe that once I lived amongst them and loved them. About the brim of which I will have these words circumscribed viz :—*Ultimum vale Edwardi Ayleworth antiquis suis Medii Templi amicis*, with my armes <sup>2</sup> faire graven on the outsyde thereof ; and over all the outsyde of the cupp I will have handes in hand graven and powdered all over in signe of a farther farwell to my old loving frendes, and when this cupp shall come to be delivered, which I would have to be done by Mr. Barton presently after my death, or as soone as conveniently maye be I would have this last clause of my will concerning this cupp to be copied out and to be putt into the cupp under the cover, and soe to be presented to the Treasurer of the House whoe ever he shalbe at that time. And soe the Lord be with them.” <sup>3</sup>

Among prominent Temple lawyers of the reign of James I the two Masters of the Bench whose names occur first among

<sup>1</sup> D. 225, 233, 239, 240, 250.

<sup>2</sup> Ayleworth Arms—Sable on a bend argent 3 birds gules ; on a chief or 3 reindeer heads cabossed sable : see Burke's Armory.

<sup>3</sup> C. 201 ; M.T.R. 702.

the grantees of the letters patent by which the King granted the Temple property to the two Societies, are deserving of some further notice—Sir Julius Cæsar of the Inner House and Sir Henry Montagu of the Middle Temple.

Julius Cæsar <sup>1</sup> was the son of Cæsar Adelmare, Court physician to Queens Mary and Elizabeth. He was admitted to the Inner Temple Society from Clement's Inn on October 10th, 1580,<sup>2</sup> having already graduated in Arts at Oxford. In the following year he obtained the degree of doctor of laws at Paris and a similar degree at Oxford in March, 1583.<sup>3</sup> He seems to have had considerable influence at his command (no doubt through the esteem in which his father had been held), and to have been pertinacious in making use of it. Thus many appointments fell to his lot. As early as 1581 he was made a Commissioner under the Piracy Act, 1536 (28 H. VIII, c. 15), for the trial of offences within the jurisdiction of the Court of Admiralty and Chancellor of the Hospital of St. Katherine's by the Tower. In 1583 he was appointed Counsel to the City of London, and Commissary and Sequestrator General in Essex, Herts, and Middlesex; while in April of the next year he became Judge of the Court of Admiralty at the early age of twenty-seven. In October, 1588, he was made a Master in Chancery, and in 1591, a Master extraordinary of the Court of Requests and a Bencher of his Inn. Elected Treasurer in the following year he held the office for two years, earning the special thanks of the Society by rebuilding at his own expense certain chambers afterwards called by his name. In 1595 his Mastership of Requests became a full Mastership of that Court, and in June, 1596, he also obtained the Mastership of St. Katherine's Hospital. The prosperity he had enjoyed under Elizabeth knew no abatement under her successor. King James renewed his appointments, knighted him, and gave him the Manor of Linwood in Lincolnshire and the Forest of High Peak in Derbyshire. His next promotion was to the important office of Chancellor and Under Treasurer of the Exchequer in 1606, and in July, 1607, he was sworn of the Privy Council. The climax of his successful career came in 1614, with his appointment as Master of the Rolls, an office he continued to hold till his death in 1636 at the ripe age of seventy-nine.

A lavish distributor of the wealth his emoluments brought him,

<sup>1</sup> See *Lives of the Cæsars* (Lodge); Foss, VI, 266–272; D.N.B. VIII, 204–207.

<sup>2</sup> *Admissions Bk.* (1571–1640), 102.

<sup>3</sup> *Anthony Wood's Fasti*, I, 224.

he enjoyed a unique reputation in his day for an almost boundless benevolence. He was, says Fuller, "a person of prodigious bounty to all of worth or want so that he might seem to be the Almoner General of the nation"; and Isaac Walton has recorded with reference to his remarkable longevity that he was said to be kept alive beyond nature's course by the prayers of the many poor whom he daily relieved.<sup>1</sup> He cannot be said to have left any great reputation as a lawyer. But he seems to have been an upright Judge, and to have enjoyed the respect of his contemporaries.

"He continued more than 20 years Master of the Rolles"—to again quote Fuller—"and though heaved at by some expectants sate still in his place well poyzed therein with his gravity and integrity. . . . What shall I speak of his arms, viz. :—gules three roses argent on a chief of the first so many roses of the second, emblemeng the fragrancy of the memory he hath left behind him."<sup>2</sup>

Sir Henry Montagu<sup>3</sup> came of a family distinguished in the Law. The grandson of Sir Edward Montagu who had been Chief Justice in the reign of Henry VIII, he joined the Middle Temple from Christ's College, Cambridge, on November 6th, 1585, and was called to the Bar on June 9th, 1592.<sup>4</sup> In 1601 he entered the House of Commons as member for Higham Ferrers. In May, 1603, he was chosen Recorder of London and knighted on the 3rd of the following July.<sup>5</sup> He retained the office for thirteen years. On October 25th, 1605, he was elected Reader of his Inn and read in the following Autumn.<sup>6</sup> On September 11th, 1607, he received from King James the status of King's Counsel, being the second counsel to be so dignified.<sup>7</sup> Created a Serjeant-at-Law in February, 1610, he was a week later appointed King's Serjeant.<sup>8</sup> In November, 1616, on the removal of Sir Edward Coke, he was raised to the Judicial Bench

<sup>1</sup> Life of Sir Henry Wootton.

<sup>2</sup> Worthies, 179. Sir Julius Cæsar's roses may be seen in the south bay window of the modern Inner Temple Hall.

<sup>3</sup> See, generally, Foss VI, 167-172; D.N.B. XXXVIII.

<sup>4</sup> D. 179, 226.

<sup>5</sup> Shaw, II, 114.

<sup>6</sup> D. 338, 345.

<sup>7</sup> State Papers Domestic, Jas. I, 60, fo. 72.

<sup>8</sup> C. 17.

as Chief Justice of the King's Bench.<sup>1</sup> He only held the office four years, resigning it in December, 1620, to become Lord High Treasurer, when he was ennobled as Baron Montagu and Viscount Mandeville. For two months, May and June, 1621, he served as a Commissioner of the Great Seal, after the fall of Bacon. In the following September came a further change in his fortunes, when (to make way for Sir Lionel Cranfield) he retired from the office of Lord Treasurer and became President of the Council. His faithful service to the Crown was acknowledged by Charles I, who, in February, 1625, made him Earl of Manchester, and in June, 1628, Lord Privy Seal. In this office he continued to be an active servant of the Government and played a considerable part in State business. Trusted by Charles as he had been by King James, he was appointed (though nearly eighty years of age) one of the Guardians of the Kingdom during the King's visit to Scotland in 1641. His long life of varied and useful service was, however, drawing to a close. He died on November 7th, 1642. Lord Clarendon describes him as "a man of great industry and sagacity in business which he delighted in exceedingly"; and as being "always looked upon as full of integrity and zeal to the Protestant religion as it was established by Law and of unquestionable loyalty duty and fidelity to the King";<sup>2</sup> while the latest estimate of his career and character acknowledges his "high and various ability and untarnished honour."<sup>3</sup> His diversion to State employments probably prevented him acquiring reputation as a Judge, commensurate with his abilities. Thomas Fuller, however, states that

"when Lord Privy Seal he brought the Court of Requests into such repute, that what formerly was called the Almes-basket of the Chancery had in his time well nigh as much meat in and quests about it (I mean suits and clients) as the Chancery itself."<sup>4</sup>

One other name famous in the annals of the Inner House calls for notice here. Sir Edward Coke, though his activities

<sup>1</sup> When he went in great state to Westminster accompanied by Earls, Lords, and others of great quality, besides the "whole frie of the Middle Temple," etc.: John Chamberlain, *State Papers Domestic*, Jas. I, Vol. 89, No. 39, November 23rd, 1616.

<sup>2</sup> *History* (Edit. 1826), I, 97.

<sup>3</sup> D.N.B. XXXVIII, 250.

<sup>4</sup> *Worthies*, 289.



extended into the reign of Charles I, belongs as a Judge to that of King James, and as the dominant legal figure of his time, some account of this celebrated Jurist must now be given.

Endowed by nature with a keen and penetrating mind and possessing immense industry, Coke early achieved an astonishing success in his profession. From the first he seems to have been inspired by an almost passionate enthusiasm for the Common Law. If, as his rival Bacon said, the Law is a jealous mistress she never had any reason to complain of a divided allegiance on the part of Edward Coke. From the first his devotion to her seems almost to have amounted to idolatry, and certainly no votary ever laboured more strenuously in her cause. Gifted by nature with a retentive memory and a robust constitution, he became for his contemporaries the very embodiment of the whole Law of England. If later research has proved there were flaws in his learning and that his reports too often present his own private conclusions as considered decisions of the Judges, yet such was the ascendancy of his mind in the realm of his favourite study, that no other Englishman has exercised so dominating an influence over successive generations of lawyers. Pre-eminently great as a lawyer, unhappily the same tribute cannot be paid to his character as a man. A life of contention is not favourable to the development of the finer instincts, and great success as an advocate is apt to breed a habit of intolerance and domination which pays little regard to the feelings of others. In Coke it did so to a conspicuous degree. His treatment of the unfortunate prisoners whom it was his duty to prosecute as Law officer of the Crown, was often so harsh and brutal as to shock the feelings of even that not too fastidious age. In particular, his behaviour at the trial of Sir Walter Raleigh, when he strove to prejudice the accused by irrelevant allegations, of which he knew he could adduce no proof, and to shout him down with epithets of coarse vituperation when he ventured to defend his life, has come under universal condemnation. Indeed, it is Coke's nemesis that, notwithstanding his great reputation as a Master of Law, his conduct in this case, more fully reported, and therefore better known than any of his other performances as Counsel, has made him an object lesson to all time in what an English advocate, if he wishes to remain a man of honour, must not do.<sup>1</sup> Towards his contemporaries, also, Coke's behaviour in the heyday of his success

<sup>1</sup> See Howell's *State Trials*, II, 1-60; also Stephen's *Hist. Crim. Law*, I, 335; D.N.B. XI, 230.

was so overbearing as to leave him few real friends in the long night of his adversity. He is far from being an attractive personality, and it is not surprising that doubts have been expressed as to the genuineness of his patriotism. But none can refuse to pay homage to his great attainments as a lawyer and the resistance he offered on the Bench and later in the House of Commons to the arbitrary claims of the royal prerogative, however dubious the motives which inspired it, contributed in no mean degree to the establishment of constitutional liberty.<sup>1</sup>

The leading incidents of his career may be briefly stated. Born on February 1st, 1551, Coke passed from Norwich free school to Trinity College, Cambridge, and thence four years later, in 1571, to Clifford's Inn, from which he was admitted to the Inner Temple on April 24th, 1572.<sup>2</sup> After six years' residence he was called to the degree of the Utter Bar by that Society on April 20th, 1578, and in the following year chosen Reader of Lyon's Inn. It is said that he was already famous for his legal learning, and this is probably true, as otherwise his appointment to that office could hardly have happened at so early a stage in his career. "Here his learned lectures," says Thomas Fuller, "so spread forth his fame that crowds of clients sued to him for his counsel."<sup>3</sup> With business flowing in upon him he married, at the age of thirty-one, Bridget Paston of the well-known Norfolk family, an heiress who brought him a great fortune. Recorder of Coventry in 1585 and of Norwich in 1586, he was elected a Bencher of his Inn on May 31st, 1590, only twelve years after his call to the Bar.<sup>4</sup> Next appointed Recorder of London he was chosen Summer Reader of the Inner Temple on April 16th, 1592,<sup>5</sup> and selected as his subject the Statute of Uses.<sup>6</sup> The same year he resigned the Recordership on appointment as Solicitor-General (June, 1592), and being returned to Parliament for the County of Norfolk, was elected Speaker of

<sup>1</sup> The best account of Sir Edward Coke's career is the admirable article by Mr. G. P. Macdonell in D.N.B. XI, 229. There is also a useful Monograph on Coke by Serjt. Woolrych (1826), and a careful notice of him by Mr. Foss in his lives of the Judges.

<sup>2</sup> Admissions Bk. (1571-1640), p. 55: "Edwardus Coke de Myleham in com. Norf. generosus nuper de Clifford Inne admissus est in Societatem istius comitivae in consideracone xx<sup>s</sup> premanibus solutorum 24 die Aprilis anno regni Elizabethae Reginae XIIIIL."

<sup>3</sup> Worthies, 250.

<sup>4</sup> A.P. II, 3.

<sup>5</sup> *Ibid.* 9: "Mr. Edward Cooke Recorder of London ys elected Reader for ye nexte graunde Vacacon."

<sup>6</sup> Foss, Vol. VI, 110.

the House of Commons. In April, 1594, he received the higher office of Attorney-General,<sup>1</sup> and on November 3rd, 1595, was elected Treasurer of the Inner Temple.<sup>2</sup> Continued in his office of Attorney by James I, who knighted him on May 22nd, 1603,<sup>3</sup> Coke was in June, 1606, raised to the Bench as Chief Justice of the Common Pleas,<sup>4</sup> having been first created on the same day a Serjeant-at-Law, when he gave rings with the motto *Lex est tutissima cassis*.

Here, however, at the summit of his success his troubles began. At the Bar a ruthless prosecutor and willing servant of the Crown, he no sooner mounted the judicial Bench than he showed an independence which must have astonished King James. The first evidence of this was his determined opposition to the claim of the ecclesiastical tribunals (favoured by the King) to co-ordinate jurisdiction with the Courts of Common Law, which he met by prohibitions.

To the policy of the Crown in its effort to dispense with Parliament by raising money through impositions and altering the Law by proclamations, Coke offered an equally resolute resistance, and as a punitive measure he was transferred in 1613 (on the advice, it is said, of Sir Francis Bacon) to the less lucrative though higher office of Chief Justice of the King's Bench. But this change, though by no means to his liking,<sup>5</sup> and the reason for which he probably well understood, in no way abated his independence. A struggle with the Court of Chancery, whose equitable jurisdiction to remedy the hardships of the Common Law, Coke resented, increased his difficulties; and when a bill of indictment under the Statute of Præmunire was presented against persons concerned in proceedings by which the aid of equity had been invoked to defeat a judgment unjustly obtained in the King's Bench, the Chief Justice was popularly believed to have instigated the proceeding. The indictment proved abortive, for the Grand Jury threw out the bill; and when the King, to stop the scandal of the competing jurisdictions, took the matter into his own hands and decided in favour of the Court of Chancery, Coke's position was seriously shaken. Holding his office at the royal pleasure, he was suspended from the exercise of his judicial functions in the

<sup>1</sup> Tabulæ Curiales, 53, 56.

<sup>2</sup> A.P. II, 22.

<sup>3</sup> Shaw, II, 110.

<sup>4</sup> Tab. Cur. 57.

<sup>5</sup> It seems that he wept as he left his place in the Court of Common Pleas. An exhibition of emotion in which the officials of the Court are said to have joined (Chamberlain).

summer of 1616, and ordered to revise his reports, which were alleged to contain exorbitant and extravagant opinions. He was even subjected to the indignity of cross examination.

"The Lord Cooke," wrote Chamberlain to Sir Dudley Carleton on October 26, 1616, "hath ben called twice or thrice this terme before the Lord Chauncellor (Ellesmere) and the King's learned Counsaile to give a reason of divers thinges delivered in his reports. The objections at first were eight and twenty which either were so weake in themselves or so well answered that they are now reduced to five wherein they are not so sufficiently satisfied but have referred his aunswers over to the King. Yt is not the least part of his humiliation to be convented in these points before such judges as Sergt. Crew, Sergt. Montague and Sergt. Finch the Attorney (Sir Francis Bacon) and the Sollicitor (Sir Henry Yelverton) whereof the greater part excepting the Sollicitor are held no great men of law and with all to find so course usage as not to be once offered to sit downe and so unrespective and uncivill carriage from the Lord Chauncellor's men that not one of them did move a hat or make any other signe of regard towards him, whereof the Quene taking notice his Ma<sup>tie</sup> hath since sent word that he wold have him well used." <sup>1</sup>

Needless to say, Coke's revision of his Reports failed to satisfy King James, and in the following November he was dismissed from office. The often-quoted words of Chamberlain to Carleton embody the gossip of the time, and no doubt correctly describe the causes of his fall: "The common speach is that fowre pp<sup>s</sup> have overthrowen and put him down, that is Pride, Prohibitions, Præmunire and Prerogative." <sup>2</sup> The King, however, tempered the dismissal with some acknowledgment of the Chief Justice's merits.

"Yf Sir Edward Coke could beare his misfortune constantly," wrote Chamberlain, "yt were no great disgrace to him for he goes away with a generall applause and goode opinion and the King himself when he told his resolution at the Counsaile table

<sup>1</sup> State Papers Dom. Jas. I, Vol. 88, No. 140.

<sup>2</sup> *Ibid.* Vol. 89; November 14th, 1616.



to remove him yet gave him this testimoni that he thought him no way corrupt but a goode justicer with so many other goode wordes as yf he meant to hang him with a silken halter." <sup>1</sup>

Thus closed Sir Edward Coke's judicial career.<sup>2</sup>

Though he was now sixty-four nearly twenty years of life yet remained to him. Pursuing in private his legal studies he transferred the scene of his public activities to the House of Commons, which he was free to enter once more. In 1620 he was returned as member for Liskeard and in 1624 for Coventry. Coke now appeared as the champion of the popular cause, of which his vigorous personality and the great respect paid to his learning made him a formidable exponent. His opposition to monopolies and the proposed Spanish Marriage of Prince Charles, led to his temporary confinement in the Tower, the angry King declaring, it is said, that he was the fittest instrument for a tyrant that ever was in England.<sup>3</sup> In the first and third Parliaments of Charles I, as member successively for Norfolk and Bucks, he still maintained the battle against the royal prerogative, denouncing Buckingham as the evil genius of the times and moving the Bill which resulted in the Petition of Right. But the dissolution of Parliament in 1629 once more consigned him to private life and in 1634 he died. The event is thus recorded in Croke's Reports Michaelmas Term, 10° Car. I.

"Sir Edward Coke (who was attorney General to Queen Elizabeth and to King James and afterwards Chief Justice of the Common Pleas and then Chief Justice of the Kings Bench and in 14 Jac. I discharged of that place) died at his house in Stoke in the County of Bucks. in Septr. 1634 being a prudent grave and learned man in the Common laws of this realm and of a pious and virtuous life. He died in the 82<sup>d</sup> year of his age."

Coke's commanding influence over succeeding generations of lawyers has been due to his writings. So great was the respect paid to these that statements by him even when unsupported

<sup>1</sup> State Papers Dom. Jas. I, Vol. 89, November 23rd, 1616 (No. 39).

<sup>2</sup> "He gave a goode answer likewise to the new Cheife Justice who sending to him to buy his collar of SS<sup>s</sup> he saide he wold not part with yt but leave yt to his posteritie that they might one day know they had a Cheife Justice to their ancestor": *Ibid.*

<sup>3</sup> Wilson's Hist. of Great Britain, p. 191.

by any authority came to be accepted as law by the Judges ;<sup>1</sup> nay, more, his very errors became sacrosanct. So late as 1884 the House of Lords refused to overrule a doctrine acted upon for 280 years, which admittedly had its origin in an erroneous statement of Sir Edward Coke, who had treated a mere *obiter dictum* as a point actually decided by the Court.<sup>2</sup>

Some of his writings<sup>3</sup> were not made public till after his death. Eleven parts of his Reports and the first part of his Institutes were published in his lifetime. The first part of the Reports appeared on January 1st, 1600 ; the second and third in 1602 ; the fourth and fifth in 1605 ; the sixth in 1607 ; and the eighth in 1611. In his address to the reader headed "Deo, Patriæ, Tibi" prefixed to the eighth part, he thus alludes to his increasing age :

"And whether it be in respect of the matter or my yeres growing fast upon me, being now in the sixtieth yere of mine age, or for what other respect soever it be sure I am I have felt this eighth work much more painfull than any of the other have bin unto me."

The ninth part appeared in 1612, the tenth in 1613, and the eleventh in 1615.

"This eleventh worke (learned Reader)," he wrote in the preface, "I have published in the tempest of many other important and pressing businesse and therefore could not polish them as desired. If I might judge the matter of these are not inferiour to any of the other. The end of this Edition is, that God may be glorified, his Majestie honoured the common good encreased the learned confirmed and the student instructed."

The first part of the Institutes was not published till 1628. This, his Commentary on Littleton, he twice himself revised. The three remaining parts were first printed pursuant to an order of the House of Commons of May 12th, 1641.<sup>4</sup> Other

<sup>1</sup> "The fact is Lord Coke had no authority for what he states, but I am afraid we should get rid of a good deal of what is considered law in Westminster Hall if what Lord Coke says without authority is not law": Best, C.J., in *Garland v. Jekyll*, 2 Bing. 296 (1824).

<sup>2</sup> *Foakes v. Beer*, 9 App. Ca. 605. Lord Blackburn appears to have wished to show more independence, but did not actually dissent.

<sup>3</sup> Three parts of his Institutes, and parts twelve and thirteen of his Reports.

<sup>4</sup> "This House doth desire and hold it fit that the Heir of Sir Edward

publications by Coke were a treatise on Bail and Mainprize (1637) and the Complete Copyholder (1640).

As a legal author Coke was probably at his best in his expositions of Statute Law. His second Institute in particular has earned general praise. His reports are more open to criticism, and as Lord St. Leonards has pointed out, his system of turning every judgment into a string of general propositions or resolutions, however imposing in appearance, is one not calculated to produce a faithful report.<sup>1</sup> Still, notwithstanding their defects, the Reports hold a unique position in English legal literature, and even his rival Bacon, while stating they had many errors and some peremptory and extra judicial resolutions, was constrained to admit that they contained "infinite good decisions and ruling over of cases."<sup>2</sup> Probably no other writer on English Law has shown so great a range of knowledge or compressed so much law into so compact a form. But Law is a progressive science, and in the three hundred years which have elapsed since Coke published the first eleven Parts of his Reports much of what he wrote has become obsolete and is now merely the learned lumber beloved of the antiquary. No Temple student to-day would think of beginning his legal studies by attempting to assimilate Coke upon Littleton. None the less, modern lawyers owe him an immense debt, and can still appreciate the enthusiasm of Thomas Fuller when he wrote in his notice of Coke as a Norfolk worthy: "his learned and laborious works on the laws will be admired by judicious posterity while Fame has a trumpet left her and any breath to blow therein."<sup>3</sup>

Cooke do publish in Print his Commentary upon *Magna Carta*, *The Pleas of the Crown* and *The Jurisdiction of Courts*, according to the Intention of the said Sir Edward Cooke; And that none but the Heir of the said Sir Edward Cooke, or he that shall be authorized by him, do presume to publish in Print any of the foresaid Copies or Books." Com. Journ. II, 142.

<sup>1</sup> Sugden on Powers, Edit. 1826, p. 25, note.

<sup>2</sup> Bacon's Works (Spedding's Edit.), Vol. V, p. 473.

<sup>3</sup> Worthies, p. 251.

## CHAPTER VIII

### THE TEMPLE UNDER KING CHARLES I

THE Court was at Theobalds when James I died on March 27th, 1625. Visitations of the plague were still periodic, and it is a remarkable circumstance that just as the reign of King James had been inaugurated by such a visitation, so in the first year of his successor London suffered under a like calamity. At this time the death of the Sovereign vacated the appointments of the Judges. They were, however, all reappointed by the new King. Bulstrode Whitelocke, whose father was puisne Judge of the Court of King's Bench, has given in his Memorials some account of the state of London this summer, and of the way in which the plague affected the sittings at Westminster.

As the summer advanced, the sickness, he says, so increased that the mortality rose in London to five thousand in one week. In some families master, mistress, children, and servants were all swept away. So great grew the fear of infection that "persons who were to pay money did first put it in a tub of water and then it was taken out by the party who was to receive it." Under such conditions the Collegiate life of the Inns of Court was necessarily suspended, and at a parliament of the Middle Temple held on July 1st, 1625, it was ordered :

"That there be noe Summer Reading this yeare by reason of the great increase and danger of the sicknes and that neither the Barristers nor gentlemen Under the barre vacaconers shalbe bound to attend their vacacons but Commons to breake up and all to depart out of the house ; but onely some fewe to be appointed by Master Treasuror to keepe and attend the house until such time as it shall please God to cease and abate the sicknes." <sup>1</sup>

<sup>1</sup> C. 200.



The Houses of Parliament adjourned to Oxford, and it became clear the Michaelmas sittings of the Courts could not be held at Westminster. Thus it fell to the lot of Sir James Whitelocke to adjourn the Court of King's Bench to some place safe from the prevailing infection. The choice fell upon Reading, and when the plague had somewhat abated, so that the mortality had fallen to two thousand five hundred a week, Justice Whitelocke, then at Fawley Court, his house on the Thames, set forth on his errand to Westminster Hall.

"He went," says his son, "to Horton near Colebrook and next morning early to Hyde Park Corner, where he and his retinue dined on the ground with such meat and drink as they brought in the coach with them; and afterwards he drove fast through the streets, which were empty of people and overgrown with grass, to Westminster Hall where the officers were ready, and the Judge and his company went straight to the King's Bench adjourned the Court, returned to his coach and drove away presently out of town."<sup>1</sup>

The Inner Temple Society had likewise abandoned their Summer Reading<sup>2</sup> on June 19th, and following the Judges, both Inns migrated to Reading, where a parliament was held for the Middle Temple on November 18th, and for the Inner Temple on the following day.<sup>3</sup> Before the close of January, however, both Societies were back in London, and on the 27th of that month the accounts of the Treasurer of the Middle Temple were read and allowed, and a fortnight later the usual appointments were made for the Lent Reading.<sup>4</sup>

Originally it had been the practice for the Middle Temple Treasurer to receive into his own hand all monies payable to

<sup>1</sup> Memorials (1732), p. 2.

<sup>2</sup> A.P. II, 154.

<sup>3</sup> C. 200; A.P. II, 154. This Reading parliament supplies the first recorded instance of an election to the Bench of the Middle Temple. Mr. Thomas Mallett had been elected Reader for the preceding Autumn, but prevented by the prevailing sickness from discharging the duties of the office. It was still uncertain when he would be able to do so, and instead of electing another Reader the Benchers at this parliament called to the Bench Mr. Robert Berkeley "designed to read next in course to Mr. Malett when time shall serve." In fact the sickness so abated that Mr. Malett read in Lent and Mr. Berkeley in the following Autumn. The practice thus introduced was not repeated at the Middle Temple till the Readings were stopped by the Civil War; see *post*, p. 421.

<sup>4</sup> C. 200, 202.

the Inn, and himself make all necessary disbursements. As the membership of the Inn increased these duties must have become onerous, and probably in practice they had been largely delegated to the Under Treasurer, the responsibility, however, remaining with the Treasurer. In February, 1625, it was decided to entrust them in future to the Under Treasurer, making him personally responsible to the Society. At this time the office of Treasurer was filled by Nicholas Hyde (uncle of Edward Hyde, the future Lord Clarendon), who in the following year became Chief Justice of the Common Pleas.<sup>1</sup> The record of this important change in the practice of the Inn is as follows :

“Also upon the further mocon of Mr. Treasuror touchinge the monies and revenues of the House ; Forasmuch as the Under Treasuror hath put in Securitie to answer the same which bond is in his hands his humble desire was to be eased of the charge or trouble of receiving anye monies into his hands perteyning to the house ; it is therefore ordered by the Masters of the bench that not only the present Treasuror but all succeeding Treasurors shalbe eased of that charge and trouble and shall not at anye time hereafter receive into his or theire hands anye monie perteyning to the house but that the Under Treasuror shall wholye receive and keepe the same and give account thereof from time to time in the Highe Treasuror's name as is usuall or when he shalbe there unto required by the Masters of the bench.”<sup>2</sup>

Later, in 1639, a restriction was placed on a power the Treasurer had formerly possessed in connection with calls to the Bar by an order (enacted October 11th) that in future the Treasurer should not compound for any vacations or assignments in respect of the degree of the Utter Bar without the assent of the Masters of the Bench in open parliament first had and obtained.<sup>3</sup>

In 1641 a change was made in the system of auditing the Treasurer's Accounts, it being ordered (October 29th) that the present and past Treasurer with two other Benchers should peruse the bills of the account and report thereon, and that this course should be followed in the case of all future accounts. At the same time a direction was also given that all bills to

<sup>1</sup> Foss, VI, 335.

<sup>2</sup> C. 202.

<sup>3</sup> B. 216.

charge the House should be entered in a special book to be kept in the Treasury, in which acquittances were likewise to be entered under the hands or marks of the receivers.<sup>1</sup>

The additional duties and responsibilities imposed upon the Under Treasurer by the new practice necessarily enhanced the importance of his office, and in 1628 the various items of his remuneration were revised and fixed anew by the Benchers. The details entered on a Minute of June 27th are given in the form of answers to certain claims advanced by him, and show the range of his duties.

“ *The Under Treasurer’s allowances.*<sup>2</sup>

“ 1. His Claime of Dyett through the yeare is allowed in respect of his continuall attendance here when divers of the other officers are absent :

“ 2. His Clayme of Poundage for Collecting the Rents of the house and Arearages due by the Gentlemen of the house for Pencons, Preachers roll, Serjeants roll and other Rolls of the monie which is imediately paid unto the Under Treasurer by the gentlemen of the house uppon the surrender or sale of their Chambers, etc. the certaintie whereof is extracted gott downe in writing and manifested by the Labour paines and care of the under treasurer is allowed :

“ 3. His Clayme of twoe shillings sixpence per diem for everie dayes attendance in overseeing and guiding the workmen in their worke done about the house is allowed unto him soe that the worke be done by direcon and order or allowance of the Masters of the Benche and not otherwise :

“ 4. For Drawing and Entring everie gentleman’s admittance into the house and making his *Recipiatur* he is allowed to take six shillings :

“ 5. For Drawing and Entring everie gentleman’s admittance into a Chamber he is allowed to take six shillings eight pence :

“ 6. His Clayme to take ten shillings of everie gentleman which is called to the Barre is allowed yt being testified by divers of the Masters of the Bench that they payde so much themselves ; And the paines in making Notes in writing of the Times Exercises

<sup>1</sup> B. 252.

<sup>2</sup> B. 19.

and Duties of the gentlemen to be called, being much, and this care and labour more than anye undertreasor hath heretofore taken in that kinde :

“ 7. His Clayme to have twenty shillings for makeing upp the highe Treasuror’s Accompt and *Quietus est* at the ende of the yeare is allowed :

“ 8. His Clayme of old cast table clothes and linen brought into the Treasurie after they are no longer serviceable for the Hall, and of all olde materialls and thinges of what kinde so ever within his charge and custodie, past employment and use of the house, is likewise allowed him ; that the house be not pestered with unnecessarie lumber and yet convenient use to be for the house of what is profitable.”

In addition to the above payments and perquisites, the Under Treasurer also received a salary of £20 per annum.<sup>1</sup>

An account of the Benchers’ meetings in parliament at the Middle Temple at this time is given in the Brerewood MS. as follows :

“ Theis parliaments are held thrice in Michaelmas Terme videlicet the first and last Fridaie of the Terme and the Fridaie next before Alhalontide and twice in everie other Terme videlicet the first and last Friday of the Terme in the Eveninge. The order in keepinge those parliaments is, first the Benchers onelie that have bene Readers meete in the Parliament Chamber, whiche is at the lower end of the Hall and take theire places according to theire antiquities. Then the Treasurer (for the tyme beinge) sitts at the table bareheaded and reads suche petitions and proposeth suche matters as shalbe thought convenient for the better government of the House. The Undertreasurer standes by as an Attendant And when the Bench have concluded on any order he sees to the entraie of it and if they differ in any thinge everie one gives his voice apart begynnynge at the Puisne and so upwards and the most voices prevaile.”<sup>2</sup>

<sup>1</sup> O.J. 200, 213.

<sup>2</sup> MS. 8, 9. This writer also says the Treasurer “ hath no voice ” in parliament, but this seems to be erroneous at the time now reached : see *ante*, p. 219.



The same MS. also describes the ceremony by which the Reader, after the conclusion of his Reading, was admitted a full Bencher of the Inn :

“ The first parliament of the next Terme [after the Reading] when the Benchers there assembled have dispatched their other affaires this new Reader is sent for to come amongst them where being come and having taken the lowest seate of the Rowmthe, one of his assistants who comonlie is the next precedent Reader beinge by the Bench called to give an account of the Readinge makes a grave Oration unto them declaring the great learninge and chardge of the Reader together with the Statut that he read upon and his divisions thereupon made with other words tendinge wholly to the Reader’s comendacon. In answer whereof the Reader makes another grave Oration in his owne excuse magnifienge the learned arguments of his assistants and Cupbordmen and the good order and behaviour of the younge gentlemen with thankes to them all for soe patientlie bearinge with his infirmities.<sup>1</sup> After which the Bench gives him thankes and soe they altogether sitt downe to supper. At what tyme (and not before) the Reader is an absolut and confirmed Bencher and hath voice with the rest in all succeeding parliaments and is for the two next Readinges chosen for one of the Assistants of those Readers. But noate,” adds the writer, “ that before the new Reader is thus called into the parliament house the Bench receave perticular information of his carriage and proceedings duringe the tyme of his Readinge and if they finde him guilty of any great fault, they sett a great fyne on his head or make suche other orders against him as they think fittinge.”<sup>2</sup>

Though a Reader in the Middle Temple did not attain the status of a complete Bencher until the Term following that in which he read, at the commencement of his period of office he took his place at the Bench table in Hall and enjoyed pre-

<sup>1</sup> This account is confirmed by Mr. Bagshaw’s description of his own admission to the full privileges of a Bencher (Lent, 1639–40): see his *Vindication* (pub. 1660), p. 17.

<sup>2</sup> MS. 21. As an instance of this see the case of Reader Peter Rosse, 1572, *ante*, p. 187.

cedence there during his Reading. On November 25th, 1631, the rule of the Inn in this matter was reaffirmed as follows :

“ Also at this parliament it is declared and adjudged that the antient and continued usage, practice and custome of this house is and ever hath bin that allwaies a Reader of this house and none but a Reader (whosoever hath bin associated to the Benche) hath [the right] or ought to sitt antient at the upper ende of the benche side of the Benche table in the hall, And soe it is ordered for ever to continue.” <sup>1</sup>

In Hilary Term, 1627, special orders were again issued, signed by all the Judges, bearing upon the office of Reader and directed to be observed in all the Houses of Court. One of these orders shews that Readers wore a special gown with a velvet welt on the back, and were expected to wear this robe during the whole period of their reading, not merely when acting officially in their Inn, but also when engaged in their private practice in the Courts at Westminster. Order No. 1, which required the appointment of a double Reader, is crossed out in the Middle Temple Minute Book. As already stated, such appointments for good reason were no longer made by that Society.<sup>2</sup> These orders were as follows :

“ 1. That there shalbe in everie Inne of Cort a Double Reader everie yeare or everie second yeare :

“ 2. That the Lent Reader shall beginn his reading the first Mundaye in Lent unlesse it fall in terme ; and in such case it shall beginn at such daye after as hath beene used in the severall houses ; and everie summer Reader shall begin the first Mundaye in August ; the Double Readers shall continue theire reading by the space of one whole weeke at least and the single Reader shall continue by the space of a fortnight at the least and in that time to reade as often as hath bin used in the severall houses :

“ 3. Noe Reader shall have above the number of Ten men to attend him during his reading and everie Reader the Sundaye before the beginninge of his reading shall repayre to the sermon

<sup>1</sup> B. 83.

<sup>2</sup> See *ante*, p. 300.

at Pauls Crosse and whilst he is there shall wear his cappe in such decent and orderly manner as antiently hath bin used :

“ 4. That noe Reader shall give exceedings throughout the hall<sup>1</sup> above thrice in the weeke and that at dinner onely :

“ 5. That everie Reader shall make and put in his reading soe manye cases as hath bin most commonly used in the same house where he readeth and not fewer :

“ 6. That noe Reader in Cort shall practise at the barres at Westminster but with his Reader's gowne with the velvett welt on the backe and that none but Readers in Cort shall at all weare or use anye such gowne :

“ 7. That all Readers, Benchers, Barresters and other Students and Fellowes in everie house of Cort and Chancerie shall repaire to the hall at dinner supper and exercises in their Cappes and not in hatts and shall likewise repayre to the Church Chapell and place of prayer in their Cappes :

“ 8. That noe Fellowes or Students in anye house of Cort or Chauncerye shall come into the Hall, Church, Chapell or place of prayer with bootes, but orderly and civilly as antiently hath beene used upon payne that such as wilfully or contemptuously breake these twoe last orders or either of them, for the first time shalbe putt out of Commons untill he be restored upon suite to the Benche And for the second time fined at the pleasure of the Benche and the third time shalbe expulsed the house :

“ 9. And such Reader as shall contemptuously breake anye of the orders aforesaid shall not be suffered to practise at anye barre at Westminster or at the Assises.”<sup>2</sup>

Later, on April 29th, 1642, it was deemed necessary to repeat these orders and enact that Readers who failed to observe them should be utterly secluded from and be incapable to be admitted into the Society of the Bench.<sup>3</sup>

The long contest between King Charles and his Parliaments arising out of his attempt to establish personal government

<sup>1</sup> Supplement by his bounty the ordinary fare supplied for Commons.

<sup>2</sup> B. (end) 1.

<sup>3</sup> B. 265.

finds no echo in the Minutes of the Temple Societies until the outbreak of Civil War, but during the early part of this reign the even tenour of life in the Temple was again much disturbed by sickness and the Readings in consequence often abandoned. As already noticed, from this cause there was no Summer Reading in 1625. For the same reason the Summer Reading was also abandoned in 1630, Commons being broken up on June 11th, and all ordered to depart except some few officers deputed to keep and attend the House "untill it shall please God to bring the Companie together againe in safetie."<sup>1</sup> In 1636 the Summer Reading was again given up "in consequence of the contagion of the plague increasing," and in addition to the members of the Society all who had shops in the House were ordered to depart.<sup>2</sup> The following Lent Reading was likewise abandoned, and as an extra precaution it was ordered that if the sickness increased, as in the last Summer Vacation, the gates and passages between the Middle and Inner Temple were to be made up and kept shut, and watchmen appointed to look to the House.<sup>3</sup> In June, 1637, the plague still continued, and the Summer Reading for that year could not be held.<sup>4</sup> On all these occasions the Readings in the Inner Temple were likewise abandoned.<sup>5</sup>

In one case at this time a Reading in the Temple was cut short by another cause than sickness. As this is believed to be the only instance of a Reading at an Inn of Court being prematurely terminated by outside interference, some details regarding it will be of interest. On October 25th, 1639, Master Edward Bagshaw was nominated Reader at the Middle Temple for the ensuing Lent.<sup>6</sup> He had joined the Society, from Brasenose College, Oxford, on November 25th, 1608, and was therefore at this time of more than thirty years' standing in the House.<sup>7</sup> Bulstrode Whitelocke describes him as a hard student, and at this stage of his career "much inclined to the non-conformist way and to publish some of his learning in favour of them";<sup>8</sup> which, with Laud at Lambeth, was no doubt a ticklish business. Having made a special study of the clergy as an Estate of the Realm he chose for his Statute the enactment of Edward III known as *Statutum pro Clero*.<sup>9</sup> At this time the King's Government had serious trouble on their hands in Scotland with the

<sup>1</sup> B. 50.<sup>2</sup> B. 165.<sup>3</sup> B. 170.<sup>4</sup> B. 176.<sup>5</sup> A.P. II, 189, 233, 235, 238, 240.<sup>6</sup> B. 218. Called to the Bar, January 27th, 1615: C. 97.<sup>7</sup> D. 377.<sup>8</sup> Memorials, 33.<sup>9</sup> 25 Ed. III, st. 6.



party of the Covenant, while even in England there was a mighty outcry against Bishops. The Reader's subject was thus one the interest in which was not likely to be confined to a domestic audience. He seems to have realized the delicacy of his task, for in his introductory observations he stated that, after the example of an excellent historian (Tacitus), he would not follow truth too near lest it should dash out his teeth, nor yet at too great a distance lest he lost it, and thus he would keep himself in an equal distance neither to offend nor be offended. Subsequently, in the year 1660, he published a *Vindication of his Reading*, from which the particulars here given are taken.<sup>1</sup>

He divided his subject into ten divisions, to cover the ten days of actual reading, and upon each division put ten cases. This being "according to the then manner of Readers." As the first point on the first case in his first division he propounded this question: *Whether an Act of Parliament may pass and be good by the assent of the King his Temporal Lords and Commons, all the Spiritual Lords being absent, or if present wholly dissenting?* and he held that it might, citing the Statute 1 Elizabeth for uniformity in religion, to which no Bishops or Spiritual Lords had assented. He further contended that Bishops only sat in Parliament by reason of the Temporal Baronies annexed to their Dignities, as was proved by the case of the Bishop of Man, who, having no such Barony, had no seat there. Hence, if the voices of the greater number of Temporal Barons exceeded theirs, the Act would pass by the vote of the majority as the Act of all Spiritual as well as Temporal. He also cited diverse other Statutes passed by the assent of the Commons and Temporal Lords only, without any mention of Prelates, and some which had passed when the Prelates had purposely absented themselves. Moreover, no Bishop, he observed, might come to Parliament when judgment of death was given or assent to the execution of laws involving blood.

As his second point on the same case he put this further question: *Whether at the time of the making of the Law on which he read (1351) a beneficed clerk might lawfully exercise civil jurisdiction and be a justice of peace?* And this he answered in the negative, citing (*i.a.*) 34 Edward III, c. 1, which, naming persons to be assigned for the keeping of the peace in every county in England, did not include clergymen among them.

<sup>1</sup> Whitelocke also gives some account of this Reading, and there is a report upon it in *State Papers Dom.* (1639-40), Vol. CCCXLVII, No. 46.

In later times, he said, no doubt other views had prevailed, but as the clergy at ordination laid aside the study of the world and the flesh, and were therefore by law excused from meddling in secular affairs, it seemed to him a dishonest thing for them to do so.

As the fourth point of the third case of his third division, he inquired: *Whether a heretic might be convicted and condemned for heresy by his own Ordinary alone?*<sup>1</sup> This, also, he answered in the negative, alleging that burning for heresy was "a brat of the canon law," having its origin in that law merely, and that the cruel Statute *De heretico comburendo* (2 Henry IV, c. 15) had passed without the assent of the Commons, as the Roll of Parliament proved, which he had himself examined, and that by the grievous complaint of the Commons against its cruelty that law had been repealed and annulled by 25 Henry VIII, c. 14.

Such were some of the topics which Master Bagshaw, according to his own account, had discussed in the Middle Temple Hall on the Monday, Wednesday, and Friday of the first week of his Reading, "without any interruption," he says, "and with the approbation of the students to whom I read." Reports of the matters thus freely debated were carried, however, to Archbishop Laud, who, having regard to the state of public feeling, could hardly be expected to view with complacency so candid a handling of the rights of Bishops, and at once brought the matter to the notice of King Charles and his Council; with the result that on Saturday morning a message was conveyed to Master Bagshaw that Lord Keeper Finch desired to speak to him, and that meanwhile, by the King's command, he must desist from further reading. At the interview which followed, the Reader, however, convinced the Lord Keeper that his law was sound, and that some of his opinions had been misreported. He also produced the notes of his arguments to be laid before the Council. Summoned to a second interview on the evening of the same day, he learned that his Majesty was satisfied except upon one point, and desired to know Mr. Reader's answer to the following question: *If the King and the Spiritual Lords with the Commons did pass an Act all the Temporal Lords dissenting, or not being there, would this be a good Act?* "I told him that it was," says Bagshaw, "and that the votes of the Temporal Lords were included

<sup>1</sup> *I.e.* the Bishop of the Diocese.

in those of the Spiritual." "Why, then, Mr. Reader," replied the Lord Keeper "you have given full satisfaction, and I am commanded to tell you, you may go on in your Reading."

The Reading, accordingly, was resumed on the following Monday. The fourth division of the subject had now been reached, and as the fourth point of his fifth case in that division the Reader propounded the following question: *Whether the fine, imprisonment, deprivation and excommunication of a clerk for enormous offences (and no particular offence named) was good or bad in law?* To which he answered that the sentence was void, and argued at length in support of that conclusion. Here it must suffice to mention that in this argument he discussed (*i.e.*) the Court of High Commission, which he affirmed had no power to punish except for some high and enormous offence, and if it interfered in lesser matters, might be stopped by a prohibition from the Courts of Common Law. Further, its power to fine and imprison (these not being ecclesiastical but temporal acts) was also called in question.

A report of these further opinions of Master Bagshaw was quickly carried to Lambeth, and the same afternoon his conduct was again debated at the Council board. On this occasion he had a friend present in the Earl of Manchester<sup>1</sup>—a valued servant of the Crown and once himself a Reader at the Middle Temple—who urged that Readers were subject to the Benchers of their Inns, by whom they could be punished if they did amiss, that interference by the King's Council in such cases was unknown, and might give rise to noise and disturbance, and that the proper course was to leave Master Bagshaw to the discipline of his own Society. But Laud, who viewed with more disapproval than ever discussions which now extended to the Court of High Commission, insisted that the Reader's mouth must be closed, and the royal Command went forth that Master Bagshaw should read no more. Accordingly, the same evening saw the discomfited Reader once more in attendance upon the Lord Keeper, who informed him of the King's command, and assured him that if he desired to resume his Reading he must first propitiate the Archbishop. As the Benchers also counselled submission, he resolved to approach the author of his troubles, and for this purpose despatched (to maintain, he says, the dignity of his office) two of his serving-men to Lambeth to request

<sup>1</sup> Formerly Sir Henry Montagu.

the favour of an appointment, which was duly given him, for 8 o'clock on the morning of the following Thursday, March 6th.<sup>1</sup> The interview, however, availed him nothing, for, although he went in full state accompanied by his nominated successor, Richard Pepys (later Chief Justice in Ireland), his Cupboardmen, and all his official servants, Laud, convinced he was a dangerous man, would make no concessions. Thus the Reading on *Statutum pro clero* came to an abrupt termination, causing, as Bagshaw afterwards complained, "the first abortion to a Reader that ever was."<sup>2</sup> But if the Reader's voice was silenced in the Hall, there was no abatement of his hospitality, for, as Rushworth facetiously remarks, he still "read well in the kitchen."<sup>3</sup>

As the Earl of Manchester had predicted, this high-handed interference caused a loud noise (says Bagshaw) throughout the cities of London and Westminster, and the vulgar people increased in their clamour and hatred against the Archbishop.<sup>4</sup> In the Inn itself all the sympathy seems to have been on the side of the muzzled Reader, and when he departed from Town at the close of his period of office, accompanied, as was usual, by members of the House, his escort proved so numerous that scarcely any Reader of the Middle Temple had been honoured before by so great an attendance.<sup>5</sup> Further, the Benchers, far from expressing any disapproval of his conduct, rewarded him with the usual vote of thanks, and prompt admission to all the rights and privileges of the Bench.

Another result of the Archbishop's interference, which must have been as little expected by Laud as by the Reader himself, was Bagshaw's unanimous election, a year later, to the Long Parliament—without (he says) his asking or seeking, or stepping one foot out of his chambers in the Temple to that intent—as Senior Burgess for the Borough of Southwark, the voters of which imagined him to be, like themselves, a hater of Bishops. They must have been greatly surprised when subsequently he refused to present to the House of Commons on their behalf,

<sup>1</sup> The account of this Reading in the State Papers (Domestic) says that Bagshaw had to apply thrice at Lambeth before he was admitted. This does not agree with Bagshaw's account; he even pays a tribute to Laud's courtesies at their interview.

<sup>2</sup> Vindication, 16.

<sup>3</sup> Historical Collections, III, 991.

<sup>4</sup> Vindication, 2.

<sup>5</sup> Whitelocke says forty or fifty horse: Memorials, 33. "That honour they did me in their *ultimum vale* beyond my desert and as they well know, beyond my expectation, I shall never forget": Vindication, 17.



a numerous signed Petition for the extirpation of the Episcopate root and branch as well as the Book of Common Prayer, explaining that his desire was for the reformation, not the abolition of these dignitaries.<sup>1</sup> Moreover, when Civil War came, Bagshaw proved to be after all a King's man, shook the dust of Westminster off his feet, and sat in the royal Parliament at Oxford. In 1644 he had the misfortune to be captured by the rebel forces, and was committed by the Commons to the King's Bench prison in his own constituency, where he languished for two years.<sup>2</sup> Eventually he made his peace with the victors, and on May 2nd, 1656, his name again appears in the Middle Temple Minute Book.<sup>3</sup> From that time until his death in 1662 he took a prominent part in the management of the Inn, being appointed Treasurer on November 2nd, 1660.<sup>4</sup> The conduct of Archbishop Laud in the matter of this Reading helps to explain his own eventual fate when like high-handed methods were more tragically applied to himself by his political opponents, who, finding they would fail to convict him of treason by legal process (for he was guilty of none), cut short his trial and effected their purpose of death by a Bill of Attainder.<sup>5</sup>

There seems to have been no lack of new members at the Temple Inns at this time, but the tendency to a falling off in the number of admissions from Inns of Chancery continues. Thus, from the accession of Charles I (March 27th, 1625) till the outbreak of civil war (August 22nd, 1642), the admissions to the Middle Temple numbered 972, but of these not more than 17 are entered as from some Inn of Chancery; an average of 1 in 57.<sup>6</sup> Calls to the Bar also were numerous; the order of the Judges that not more than eight should be called in any one year by one Society meeting with scant regard.<sup>7</sup> Fourteen were called at the Middle Temple in May, 1625, and twenty in Michaelmas Term of the following year. The calling of large numbers at general calls continued till the Civil War dispersed the members of the Inn. Thus (*e.g.*) fifteen were called in

<sup>1</sup> Vindication, 3.

<sup>2</sup> Wood's *Athenae Oxoniensis* (Bliss), III, 619.

<sup>3</sup> B. 456.

<sup>4</sup> E. 33.

<sup>5</sup> "The stop of Mr. Bagshawe's Reading" was one of the matters charged against the Archbishop on his trial: see Laud's *Troubles and Tryal* (1695), 269.

<sup>6</sup> It is not possible to calculate in the same way the total admissions to the Inner Temple, as few of them are entered on the Parliament Books. No doubt the same tendencies prevailed in both Inns.

<sup>7</sup> See *ante*, p. 283.

June, 1629, twelve in June, 1632, fourteen in November, 1633, eighteen in May, 1635, seventeen in May, 1637, thirteen in June, 1638, and twenty in May, 1639.<sup>1</sup> In all, from the beginning of the reign to August 22nd, 1642, there were 222 calls to the Bar at the Middle Temple, giving an average of 13 per annum over the seventeen years included in this period. At the Inner Temple, also, calls were numerous, as will be seen by the following instances. Eleven were called there in June, 1628, twenty-five in November, 1630, twelve in June, 1632, and twelve in the following February, twenty-one in October, 1634, twenty-two in November, 1635, a like number in May, 1637, twenty-three in May, 1639, sixteen in the following January, and seventeen in November, 1641,<sup>2</sup> the total number for the whole period being 209, an average of 12 yearly.

The creation of Serjeants was a matter of great ceremony, and it might have been expected that admission to the lesser degree of Utter Barrister would also have been accompanied by much formality, especially having regard to the long period of preparation for it at this time imposed upon candidates. This, however, was not the case, possibly because the conferring of the degree did not mark the end of the student's preparation for his work as an advocate in the Courts, but only a stage in it. The procedure on call at the Middle Temple is thus described by the writer of the contemporary Brerewood MS. :

“Note there is no ceremony used in the callinge of any to the Barre more then that theire election is at the end of the parliament declared by the high Treasurer to the rest of the Barristers who are then called to be enformed what the Benche hath resolved on in that meetinge. Theire names are then entered by the Under Treasurer And the next daie immediately before dynner they are called to the Cubbord where the Treasurer of the House with some of the Benchers assistinge him cause the parties called or elected one after the other to take the oath of Supremacy which beinge donne all is ended And they remayne Utter Barristers. Howbeit they ought not immediately either to weare a Barre Gowne openly at any Barre in Westminster .

<sup>1</sup> B. 32, 95, 119, 147, 174, 197, 211.

<sup>2</sup> These figures are from the Acts of Parliament (I.T.): see A.P. II, 167, 190, 199, 206, 217, 228, 240 ; III, 14, 20, 30.

Hall to practise the law. But heretofore they were wont (for the space of two yeares at the least after such theire call) to forbear both the Gowne and practice And in the meane tyme to contynue theire exercise of mootinge in the Innes of Chancery." <sup>1</sup>

The concluding words of this description suggest that there was a tendency to deviate from the former rule requiring a definite period of post-call study before practice in the Courts, and this finds confirmation in orders issued by the Judges in June, 1635, by the King's command, which (*i.a.*) required that no Utter Barrister should practise publicly at any Bar at Westminster until he had been three years of the Bar. This order the Benchers followed and enacted on June 12th of that year.<sup>2</sup>

At the Middle Temple, where the headings of the Benchers' Minutes of parliament, the various appointments to offices, the admittances to the House and Chambers (which are in the same books), and many special orders, are still recorded in Latin, the calls to the Utter Bar continue to appear in that language. In this matter, as already pointed out, the Inner Temple had adopted a different practice. There, in the "Acts of Parliament," as the Books of the Benchers' Minutes are called, Latin is now only employed in the headings and regnal years of the parliaments.

It is still customary in special cases to excuse members called to the Bar from further attendance and study for a money payment. Thus, on November 24th, 1635, Master Clement Spelman, called to that degree at the Middle Temple, was acquitted and discharged of all his vacations and assignments "upon composicon and agreement with Master Treasurer for the sume of fiftene pounds payed into the Tresurie of this house." <sup>3</sup>

Admissions *honoris causa*, which were so numerous during the first Stuart reign, have now almost ceased. At the Middle Temple only one seems to be of this nature, the admittance on January 31st, 1625, of Sir Francis Seymour, Kt., brother of William Earl of Hertford.<sup>4</sup> While at the Inner House not one is recorded until 1635, when Robert Earl of Carnarvon, Henry Earl of Danby, Robert Lord Viscount Kensington, and William Lord Powis were so admitted.<sup>5</sup>

<sup>1</sup> MS. 11. As to calls at the Inner Temple, see *ante*, pp. 189, 190.

<sup>2</sup> B. 151.

<sup>3</sup> B. 157.

<sup>4</sup> C. 201.

<sup>5</sup> A.P. II, 227 (Summer Reading—confirmed October 11th).

The practice of electing Associates to the Bench is again in evidence in both Houses. At the Middle Temple Baron Pagitt, on his elevation to the Exchequer Bench, was so elected on November 25th, 1631, paying for his fine 100 marks (£66 13s. 4d.).<sup>1</sup> He had been called to the Bar in 1602, and since 1618 had held the office of Comptroller of the Pipe. The next election was that of Mr. Hendley (a Master of the Court of King's Bench) on February 7th, 1634.<sup>2</sup> Others so elected were, Henry Calthorpe (Queen's Solicitor), June 12th, 1635;<sup>3</sup> Peter Ball, May 6th, 1636, on his appointment to the same office;<sup>4</sup> and on April 21st, 1648, Bulstrode Whitelocke, when made a Commissioner of the Great Seal by the Parliament.<sup>5</sup>

In regard to the status of these Associates at the Middle Temple, the Brerewood MS. states that they were not tied in all things to such regularity as the full Benchers were, for they came into the Hall in their hats, and not in round caps, as the Benchers did, according to the ancient use. Further, they were not tied to keep the case after dinner nor to sit at moots, unless specially so appointed on account of their gravity and learning. They had no right to Bench Chambers, and at Revels did not sit among the other members of the Bench. Above all, they had no voice in the government of the Inn.

At the Inner Temple elections of Associates to the Bench are now more frequent. Between 1627 and 1649 there were eleven such elections. Usually the person elected was the holder of some legal office, such as Prothonotary, Master in Chancery, or Chief Clerk. On November 6th, 1627, Mr. Robert Moyle was so elected as a Prothonotary.<sup>6</sup> On November 4th, 1638, the following further members of the Inn were so elected: Sir Henry Croke, Master of the Pipe Office; John Keeling, King's Coroner and Attorney of the King's Bench; and Samuel Wightwick, Chief Clerk of that Court; again, on November 25th of the same year Richard Chamberlaine and Hugh Audley, Chief Clerks of the Court of Wards and Liveries, and Thomas Cory, Chief Prothonotary of the Common Pleas; while in June, 1639, Mr. George Farmer, another Prothonotary of that Court, was also made Associate to the Bench.<sup>7</sup> In three cases the choice fell on members who had no other status than that of Utter Barrister—Mr. Page on November 6th, 1627; Mr. Francis

<sup>1</sup> B. 83.

<sup>2</sup> B. 121. Elected a complete Bencher, October 26th, 1649; B. 351.

<sup>3</sup> B. 150.

<sup>4</sup> B. 164.

<sup>5</sup> B. 326.

<sup>6</sup> A.P. II, 165.

<sup>7</sup> A.P. III, 9, 16.



Finch, on November 3rd, 1628 ; and Mr. Edward Heyward (then of thirty-one years' standing in the Inn) in 1649.<sup>1</sup> Sometimes, as happened in the case of Mr. Moyle, an Associate was subsequently made an absolute Benchers. Here, also, Associate Benchers had no right to Bench Chambers nor any share in government.<sup>2</sup> The practice of electing Associates of the Bar likewise continues. On May 21st, 1637, Francis Williamson and George Cradock were so elected, "in regard to their offices, being Clerks of Assize," but without prejudice to their subsequent call to the degree of the Utter Bar.<sup>3</sup>

From ancient times the two chief days of entertainment in both Houses had been the Feast of All Saints (November 1st), and of the Purification, commonly called Candlemas Day (February 2nd). On these occasions the hospitality dispensed was that of the whole Society. As already mentioned, they were the special days for inviting Judges and Serjeants, former members of the Inns, who came in their scarlet and violet robes, and were received and treated with high respect. On these occasions all members of the Society then in town were expected to be present. The Readers appointed for the year acted as Masters of Ceremonies, and took control of the proceedings, according to an established etiquette. The Brerewood MS., which was compiled in this reign,<sup>4</sup> contains an account of the proceedings at the Middle Temple on these Feast days, and from it the following particulars are taken :

To do the guests due honour, two ancient Barristers of the Inn were chosen to wait upon the Judges and Serjeants at their chambers four or five days before the Feast, and convey to each a solemn invitation. On arrival at the Hall the guests were met by two ancient Utter Barristers, bearing basins and ewers of sweet water for washing their hands ; while two other ancient Barristers attended them with towels ; "no man refusing the office esteeming it rather an honor then disgrace unto him." <sup>5</sup>

The next duty was discharged by the two Readers, who met each guest at the lower end of the Hall, and thence escorted him to his place of honour at the Feast. For distinction and order's

<sup>1</sup> A.P. II, 165, 169 ; III, 63.

<sup>2</sup> Order of November 4th, 1638, affirming earlier order of June 7th, 1607 : A.P. III, 5, 6 ; also II, 68.

<sup>3</sup> A.P. II, 240 ; see also A.P. III, 59.

<sup>4</sup> This MS. was extensively used by Sir Wm. Dugdale in his account of the Middle Temple in *Origines Juridicales*.

<sup>5</sup> MS. 16.

sake, the Lent or Senior Reader carried a white staff in his hand, while the Summer Reader bore a white rod. Having ushered all the guests to their seats, the Readers then returned to the lower end of the Hall, whence, preceded by music, they ushered in the first dish carried by young gentlemen of the House under the degree of the Bar. Every dish as it arrived was placed on the table by one of the Readers, while the other standing by waited on the Judges. Besides this, the puisne Reader served every mess throughout the Hall, receiving the provisions from the Steward and himself placing them on the table.

Dinner ended, the Readers again waited upon the guests, escorting them either into the garden or some other retiring place until the Hall was cleansed and prepared for the next part of the entertainment. Which being done, the Judges were once more ushered solemnly back each to his place by the Readers. The rest may be best told in the words of the Manuscript :

“ Then the ancient of the two, that hath the Staffe in his hand standes at the upper end of the Barre table, the other with the white rodd placeth himself at the Cupbord, beinge in the middle of the Hall opposite to the Judges, where the Musicke beinge begonne he calleth twice the Master of the Revells. At the second call, the ancient with the white staffe in his hand advanceth forward and begynnes to lead the measures, followed first by the Barristers then the gentlemen under the Barre all according to their severall antiquities and when one measure is ended the Reader at the Cupbord calls for another and so in order.

“ Theis measures were wont to be truelie danced, it beinge accounted a shame for an Innes of Court man not to have learned to dance, especially the measures, but nowe their dancing is tourned into bare walkinge.

“ When the last measure is dancing the Reader at the Cupbord calles to one of the gentlemen of the Barre, as he is walkinge or dancinge with the rest, to give the Lords his Ma<sup>tys</sup> Judges a songe, who forthwith begynnes the first lyne of any Psalme as he thinks best after which all the rest of the company follows and sings with him.

“ Whilest they are thus walkinge and singinge the Reader

with the white rodd departs from the Cupbord and makes his choise of a competent nomber of Utter-barristers and as many under the Barre, whom he takes with him into the Buttrie; where, unto everie of the Barristers there is delivered a towell with wafers in it and unto everie gentleman under the Barre a wooden bowle filled with Ipocrace, with which they march in order into the Hall, the Reader with his white rodd goinge foremost. When they come neare the half pace opposite to the Judges the company divide themselves one half bothe of Barristers and those under the Barre standinge on the one side of the Reader, the other on the other side. Then after a solempn low congie made, the gentlemen of the Barre first carrie the wafers the rest with the new Reader standinge in their places. At their retourne they all make another solempn low congie. And then the gentlemen under the Barre carrie their bowles of Ipocrace to the Judges and retourninge when the Judges have dranke they make the like solempne congie and so depart all savinge the new Readers elect who wayte upon the Judges untill their departure and then usher them downe the Hall unto the Court Gate and there take their leaves of them.

“In the self same manner they entertaine the Judges and Serjeants upon the Feast daie of the Purification of our Ladie Mary the Virgin. Which two Feasts videlicet of All Saints and Candlemas are the onely Feastes in the whole yere made purposelie for Judges and Serjeants in this Societie yet of later tymes divers noblemen have bene mixed with them and solempnlie invited as guests to the dynner whiche (some saie) is contrarie to their ancient order. And yet those noblemen for the most part are suche as formerlie have bene of this Societie.

“And as touchinge their Feastes it is to be observed, that the chardge thereof is cast amongst the gentlemen of the House in their Comons oute of whiche chardge no man is exempt if he be within the Cittie althoughe not in Comons for in such case he is called *visus in villa* and shall paie half that weekes Comons where the Feast daie happens although he take none. . . .

“Likewise besides the solempne Revells or measures aforesaid they were wont to be comonlie entertayned either with

Post Revells performed by the better sorte of the younger gentlemen of the Societie with galliards corantos and other dances or els with stage plaies. The first of these Feasts beinge held to be the begynnyng and the latter the end of Christmas. But theis Post Revells of late yeres have bene disused bothe heire and in the other Innes of Court to the great impairment of theire honor and reputation.”<sup>1</sup>

The formality of the proceedings thus described no doubt appears extraordinary to the modern mind. One would have thought that both Judges and Serjeants in such hours of relaxation would have preferred to be treated with a little less deference. The etiquette nevertheless was only in accord with the spirit of the age. Social distinctions, whatever attempts may be made to disguise them, will always exist, and in the England of the seventeenth century they were still honestly recognized. The time had not yet come when deference to others in a more exalted station was confounded with servility and a parrot-like reiteration of the comfortable falsehood that all men are equal assumed to have made them so. But other times other manners. Could these ancient sages of the Law return in spirit to their former haunts, they would not now behold a Reader in his velvet-welted gown leading the measures round this ancient hall, nor the junior members of the House bowing before their guests with genial bowls of hypocras.

In both Societies there was a serious revolt during this reign against the ruling authorities. The trouble arose in connection with the observance of Christmas, the junior members advancing an entirely novel claim to exercise independent control during that vacation. At the Middle Temple, owing to the prevalence of sickness at the close of the year 1630, the keeping of Commons in the House was prohibited from December 11th till January 15th, the intention being to prevent the spread of infection “through resorte and confluence of people of all sorts to the house” to share in the gaming now carried on at that season.<sup>2</sup> This wise precautionary order was resented, however, by the junior members, who, regarding it as an unwarrantable infringement of their liberties, continued Commons on their own account, assembled a parliament,

<sup>1</sup> MS. 15-17.

<sup>2</sup> B. 54. “As of late times it hath bene used contrarie to the antient course” (November 26th, 1630).



instituted a parliament book, and appointed a clerk to keep it. Further, finding that the House Steward, faithful to his trust, would not acknowledge their usurped authority, they purported to fine him and placed him in the stocks.<sup>1</sup> To this open defiance, the Benchers replied at their next parliament by an order which after affirming there was no liberty in the House exempting any of its members from obedience to the orders of the Bench, fined and put out of Commons three of the ringleaders in the revolt, and threatened with expulsion any who did not speedily tender their submission. Submission, however, was the last thing the offenders contemplated, and coming up to the Bench table at supper-time, they demanded an immediate repeal of this disciplinary order. Taken by surprise, and perhaps not without fear of some personal violence, the Benchers who were present spoke the rebels fair and induced them to return to their places in the Hall. But this proved only a temporary respite, for at the conclusion of the meal, emboldened by such an exhibition of weakness, they renewed their demand with "insolent speeches," and finding it refused, retired in a tumultuous manner calling for pots, which they threw at the objects of their wrath as the Benchers took their way down the Hall to the parliament chamber.

"Of which notorious outrage," says the record, "the like whereof had not formerly bin knowne in anye other Inn of Cort, the Masters of the Benche complayned to the Lord Chiefe Justice<sup>2</sup> whoe conventing Mr. Deyer, Mr. Lisle, Mr. Oglander and Mr. Turnor (the most forward in that disorder) before him (assisting himselfe with Mr. Justice Whitelocke and Mr. Justice Harvey<sup>3</sup> with their assent) he committed twoe of them Mr. Deyer and Mr. Oglander, to the Kinge's Benche prison and the other twoe Mr. Lisle and Mr. Turnor he bound to good behaviour."<sup>4</sup>

These measures, however, did not by any means salve the wounded dignity of the Masters of the Bench who, in view of

<sup>1</sup> B. 60. That such a contrivance also existed in the Inner Temple appears by an item in the accounts of that Inn for 1611/12, "Newe lock for the stocks in Lent Reading, 12*d*," Gen. Account Bk. I, 64.

<sup>2</sup> Sir Nicholas Hyde: Lent Reader, M.T. 1616; C. 109.

<sup>3</sup> Sir James Whitelocke of the K.B. and Francis Harvey of the C.P.s, both former M.T. Readers.

<sup>4</sup> B. 60.

the "exorbitancie" of the offence and the need to maintain government, considered expulsion the only adequate punishment and proposed to decree it. On this the Judges again intervened, and as the record says :

"earnestly moved the Masters of the Benche in behalfe of the gentlemen to be pacified towards them and for their sakes not to proceed further to punishe for these offences though they were exceeding heinous and transcendant."

Therefore the four culprits, having duly expressed their contrition in a humble petition, were once more received into Commons and their fines remitted :

"to gratifie the said Judges in their request and in hope of better conformitie henceforth in the gentlemen." "Nevertheless," proceeds the Benchers' Minute, "they Damne their order Doome and adjudge their booke to the fire And doe further order it to be expulson *ipso facto* for anye man at anye time hereafter to take upon him exercise or clayme anye power libertye or authoritie to governe within the house otherwise than as subordinate and subject to the orders controll and government of the Masters of the Bench." <sup>1</sup>

On November 25th, 1631, the Benchers again had the control of the Inn at Christmas under their consideration, and after reciting how encroachments upon their authority had promoted disorder at a time of year wont to be employed in better and more praiseworthy purposes such as "Revells, Barriers and Arraignments and other manly and ingenious exercises tending to the grace of the actors and the honor of the Society," enacted certain rules to govern the keeping of Christmas in future, which (*i.a.*) included the following :

"6. That noe manner of play be used on anye daye during the time of Divine Service ; That noe wine or tobacco be sold nor anye healthes drank nor tobacco taken in the hall ; That noe unworthye persons be suffered to frequent the hall or to use anye gaming there or in anye other roome of this house ;

<sup>1</sup> B. 61.

That none but gentlemen of the Society be allowed to keepe anye box ; 7. That the Masters of the barre which shalbe then in Comons or the eight Ancients under the barre in their absence shall have the ordering and governing of the Society in that time And that if anye gentleman of this Society shall infringe any of the orders aforesaid the Chiefe butler for the time being shall informe the Masters of the barre thereof or in their absence the said eight Antients.”<sup>1</sup>

The trust thus reposed in the Masters of the Bar, however, soon received a rude shock, for the very next Christmas, assembling themselves with the younger members in the name of a parliament, they made an order “in special cases to drinke heathes in hall with loude musicke, expressly against the order of the Masters of the Benche for absolute restraint of such drinking.” Accordingly, on February 10th, 1631, certain Masters of the Bar present on the occasion were put out of Commons, though remaining liable to pay for them, and Master William Say of the Bar, who began and drank the first health in the Hall, and Master William Grene (also of the Bar) and Master Thomas Warre, Senior, who confessed themselves to be guilty in part, were fined 20s. each.<sup>2</sup> Moreover, in further vindication of their authority, the Benchers, on November 23rd, 1632, stopped the keeping of Commons in the Inn during the ensuing Christmas, and ordered the Hall doors to be locked up from the Saturday before St. Thomas’s Day till the Saturday after Twelfth Day, at the same time putting on record their disapproval of certain practices in which the junior members had apparently indulged during their Revels in the absence of the Bench, as appears from the following entry :

“Also the Masters of the Benche in this parliament calling to their remembrance the ancient forme of ordinarie Revells of the house in terme times and otherwise which were wont to be performed in the Hall by the gentlemen Revellers before the Masters of the Benche and the companie of the house onely, without admitting anye forraine men or women spectators into the Hall, Gallery or other places of the house, And observing of late the yonger gentlemen, ignorant of the ancient and usuall

<sup>1</sup> B. 81, 82.

<sup>2</sup> B. 86, 87. William Say, subsequently regicide ; see *post*, p. 444.

formes therein, to have introduced therinto divers innovacons, as to take upon them at those times the command and use of the Gallery over the Skreene to bring in and place there Ladies and Gentlewomen to looke on, to make them a Master of the Revells, To commaund the Reader's chaire, and place their Master therein ; To bring downe the Ladies and Gentlewomen and daunce with them in the Hall, when the Benche are gonne and the like ; The said Masters of the Benche taking into their consideracon the inconvenience of the said innovacons and the evill example and consequence thereof trenching to the overthrow of good order and government Have therefore thought fitt and with one consent soe ordered that in the presenting and performance of Revells hereafter the ancient and solemne forme be observed and that noe gentleman of the house presume to command or make use of the Gallery or bring downe anye Ladie or Gentlewoman to see their ordinary revells, or at anye such time to daunce with anye such in the hall in the absence of the Benche or to commaund or use the Reader's chaire or anye other preheminance of their Master of the Revells upon paine to be censured for so doing by the Masters of the Benche according as they in their discrecons shall thinke fitt and sutable to their offence and contempt." <sup>1</sup>

After this peace for a time reigned in the Inn. The interrupted Commons were again resumed and Christmas allowed to be kept, but not grandly. That such a keeping was consistent, however, with very high doings, appears from what happened at the celebrations of 1635. All that the Minutes state regarding this Christmas is that it was not to be kept grandly, but that Commons were to continue till next term with the usual allowance of a cartload of coals, 40s. for minstrels, and £3 for Officers' Commons.<sup>2</sup> In fact, however, the gentlemen in Commons set up one of their number as the Prince d'Amour, surrounded him with all the pageantry of a Court, and treated him for the time being as a royal personage. Except as regards the expense incurred and the unpaid debts which afterwards burdened the House, the Benchers seem to have viewed these proceedings with indulgent eyes, and what is perhaps more astonishing, real officers of State and the Lord

<sup>1</sup> B. 102, 103.

<sup>2</sup> B. 158 ; November 27th, 1635.



Mayor and Sheriffs of London bowed before this transitory Potentate and obeyed his behests. It is not, however, from the Records of the Society that these doings are known, but from a private letter written by a resident in the Strand <sup>1</sup> to Viscount Wentworth (the future Earl of Strafford), then Lord Deputy of Ireland, which contains the following passage :

“ The Middle Temple House have set up a Prince, who carries himself in great state, one Mr. Vivian a Cornish gentleman, whose Father Sir Francis Vivian was fined in the Star Chamber about a Castle he had in Cornwall about three years since. He hath all his great officers attending him, Lord Keeper, Lord Treasurer, eight White Staves at the least, Captain of his Pensioners, Captain of his Guard, two Chaplains, who on Sunday last preached before him and in the pulpit made three low legs to his Excellency before they began, which is much laughed at. My Lord Chamberlain lent him two fair cloths of State, one hung up in the Hall under which he dines, the other in his Privy Chamber ; he is served on the knee and all that come to him kiss his hand on their knee. My Lord of Salisbury hath sent him Pole axes for his Pensioners. He sent to my Lord of Holland his Justice in Eyre for venison which he willingly sends him ; to the Lord Mayor and Sheriffs of London for wine, all obey ; Twelfth day was a great day going to chapel, many petitions were delivered to him which he gave his Master of Requests : He hath a favorite whom with some others, gentlemen of great quality he knighted at his return from church, and dined in great State. . . . It cost this Prince £2000 out of his own purse ; I hear of no other design, but that all this is done to make them fit to give the Prince Elector a royal entertainment with Masks, dancings and some other exercises of wit in orations or arraignments that day that they invite him.”

The Prince Elector here mentioned was Charles Lewis, titular Count Palatine, the son of King Charles's sister Elizabeth, the Winter Queen of Bohemia, now a widow. He was in England at this time hoping to obtain his uncle's aid to recover his lost dominions, and the Inn gave a great entertainment in his honour,

<sup>1</sup> Rev. G. Garrard, dated January 8th, 1635 ; Strafford Letters, I, 506.

of which the principal feature was a Masque specially composed for the occasion by Sir William Davenant, and performed with great magnificence in the Middle Temple Hall by gentlemen of the House. The title of this piece as subsequently published was, "The Triumphs of the Prince d'Amour a Masque Presented by His Highnesse at His Pallace in the Middle Temple on the 24th of Februarie 1635." In an Address to the Reader, which is signed with Sir William's initials, it is stated to have been "devised and written in three dayes," and the haste of its preparation is gracefully excused "as from eager hearts that could delay no ceremony that might render an expression of oue loves." What gives the performance a special interest is the circumstance that Queen Henrietta Maria herself was presens in the Hall as a spectator attended by various Lords and Ladier of the Court, but in disguised apparel, perhaps in order that her real regality might not outshine the host of the occasion, the Prince d'Amour. Sir Henry Herbert,<sup>1</sup> Master of the Revels and censor of Plays to King Charles I, was also a witness of the performance, and it is from him the information comes regarding the presence of the Queen,<sup>2</sup> who, he says, "was pleased to grace the entertainment by putting off Majesty to put on a citizen's habit and to sit upon a scaffold on the right hand amongst her subjects." Her Majesty was attended by the Marquis of Hamilton, the Countesses of Denbigh and Holland, and the Lady Elizabeth Fielding, all in the like habits; while the Earl of Holland, Lord Goring, Mr. Percy and Mr. Jermyn also accompanied her. The seat of honour was given to the young Prince Elector, his younger brother Robert being on his right hand, and his host the Prince d'Amour upon his left. "The Masque," adds Sir Henry, no mean authority in these matters and almost Puritanic in his taste, "was very well performed in the dances, scenes, clothing and Music and the Queen was pleased to tell me, on her going away, that she liked it very well."

By comparison with the sum of £2000 which, according to Mr. Garrard, Master Vivian had expended during his few weeks of royalty, a debt of £232 0s. 2*d.* subsequently cast upon the Inn by these festivities seems a small matter. None the less, the money

<sup>1</sup> The son of an illustrious House he has been described as "Scholar Soldier and Courtier." He was the younger brother of Edward Lord Herbert of Cherbury and of George Herbert, Scholar, Poet, and Saint. Of his difficult office as Master of the Revels, Isaac Walton writes: "A place that requires a diligent wisdom with which God hath blessed him": *Lives*; see *Life of Geo. Herbert* (Scott's Library, 1899), p. 201.

<sup>2</sup> See D.N.B. XXVI, 191.

cost some trouble in collecting, and it was not until the poulterer had petitioned the King, alleging that he could not get his bill paid and the matter had been referred to the Lord Privy Seal, the two Chief Justices, and that eminent lawyer, Mr. Justice Berkeley, that on June 23rd, 1637, a levy was agreed upon of 20s. for every Benchers, 14s. for every Barrister, and 8s. for all other members of the House, which finally cleared off the liabilities of the Christmas of the Prince d'Amour.<sup>1</sup>

With the year 1638 came a serious renewal of Christmas disorder, base and unworthy people, as the Benchers alleged, being admitted into the Hall and other places of the House under pretence of gaming, and the festivities continued with play and excess of diet for almost a fortnight beyond the time limited by order and formerly accustomed. On this the Benchers, "finding themselves slighted," as they say, "and their authoritie through their tendernes to growe into contempt," resolved upon sterner measures. Master Walter Pigott, who had acted as Treasurer of the Bar during these proceedings, was "utterlye expelled from the Society," and William Lane, the House Steward, for providing excess of diet in breach of the express orders of the Bench, was discharged and removed from his place and office, and another appointed in his stead.<sup>2</sup>

It might have been supposed that this would have put an end to the trouble and effectually reduced the unruly spirits to submission, but the contrary proved to be the case. For when, in November, 1639, the Benchers ordered the discontinuance of Commons during the ensuing Christmas Vacation, and directed the Hall door to be locked up from the Saturday before St. Thomas's day till the Saturday after Twelfth Day, divers gentlemen of the Society assembling with drawn swords in a contemptuous and riotous manner, broke open "the dores of the hall Buttrie and Kitchin and did set up Comons and playe in the hall contrarie to the said orders." Further, they appointed a Speaker, a Lieutenant, Surveyors of the Buttery and of the Kitchen and contrrollers of the Hall, and continued to keep a gaming Christmas in open defiance of all authority until convented before the Lord Chief Justice, Sir John Bramston (a former member of the Inn), who, upon his Majesty's special direction, commanded them to break up their Commons and

<sup>1</sup> B. 176: "To be collected by the Steward upon a roll without any deduccon of poundage to himselfe that the appareles maye be the better satisfied."

<sup>2</sup> B. 206 (January 25th, 1638).

conform themselves to the order of the Masters of the Bench.<sup>1</sup>

For this great contempt all the offenders were put out of Commons and their elected officers fined—the Treasurer of the Bar 40 marks (£26 13s. 4*d.*) and the others 20 marks (£13 6s. 8*d.*) a piece. The wrath of the authorities also fell upon the servants of the Inn. William Best (Turnspit), who had supplied the rebels with a key for the kitchen door and provided them with fuel, was “utterly removed and expelled from his place in the House”; another who had acted as the offenders’ chief butler, and a third who had found them a cook, were fined 20 nobles (£6 13s. 4*d.*) each; while a fourth, who had served them as second cook, was fined 5 nobles (£1 13s. 4*d.*); the respective fines to be paid forthwith.<sup>2</sup>

These disciplinary measures seem to have proved at last effectual in putting an end to insubordination in the Inn. The final mention of Christmas in the Middle Temple Minutes for this reign occurs on November 25th, 1642, a few months after the commencement of Civil War. The Order then made authorized the keeping of Commons during the ensuing Christmas Vacation, but “without any musicke, gaming or any publique noise or shewe, whereby Companie maye be drawne into the house; And this is in respect of the danger and troublesomenes of the times.” For the better ease of Commons, however, the usual “loades of coales” was allowed “as likewise three pounds for the Commons of the officers out of the treasurie of the house.”<sup>3</sup> On this occasion John Evelyn the Diarist was chosen one of the Masters of the Revels, but got leave, he says, to resign his staff of office and spent his Christmas in the country.<sup>4</sup>

The Inner Temple Minutes continue to record the appointment of officers for a Grand Christmas year by year, during the reign of Charles I, till the outbreak of Civil War. But there does not seem to be any evidence that the persons appointed discharged the duties of their respective offices. In 1614, under King James I, the time-honoured Lord of Misrule, as already noticed, had been proscribed and the election of any person to that office expressly forbidden. Notwithstanding this prohibition an attempt was made early in this reign by the young gentlemen of the Inner Temple to revive the authority of this Christmas Lordling and even to enforce it out of the Temple. The particulars known of this incident come from two con-

<sup>1</sup> B. 221 (January 24th, 1639).

<sup>2</sup> B. 221.

<sup>3</sup> B. 273.

<sup>4</sup> Memoirs (1818 Edit.), I, 29; December 15th, 1642.



temporary letters of Mr. Joseph Mead to Sir Martin Stuteville, dated January 12th and 19th, 1627.<sup>1</sup> It seems] that this Lord of Misrule appointed one Master Palmer (the son of Sir Guy Palmer) to be his Lieutenant, and sent him late at night on Saturday, Twelfth Eve, to collect his rents at 5s. a house in Ram Alley and Fleet Street.

“ At every dore they came,” writes Mead, “ they winded the Temple horne and if at the second blast or summons they within opened not the dore, then the Lieutenant’s voice was ‘ Give fire Gunner,’ his gunner being a robust blacksmith and the gun or petard itselfe an huge overgrowne smithes hammer. My Lord Mayor being complained to on Sunday morning sayd he would be with them about 11 of the clock the same night willing all that Ward should attend him with their halberds and that himselfe besides those that came out of his house would bring the watches along with him. In fine his Lordship being thus attended and advanced as high as Ram-Alley forth came with their swords in their hose and dublets out of the Temple gate Mr. Lieutenant Palmer and some other gentlemen. One bad him come to my Lord Mayor; he answered, my Lord Mayor might come to him; but in fine they agreed to meet halfe way. And as the interview of Princes is never without danger of some ill accident so it happened in this. For first Mr. Palmer being quarrelled with by some of the halberdiers for not putting off his hatt to my Lord Mayor and giving crosse answers, the halberds began to fly about his eares and he and his company to brandish their swords. At last being beaten to the ground and Mr. Palmer sore wounded they were faine to yield to the longer and more numerous weapon. My Lord Mayor taking Mr. Palmer by the shoulder led him to the counter and thrust him in at the prison gate with a kind of indignation. And so notwithstanding his hurts he was forced to lye among the common prisoners for 2 nights. On Tuesday the King’s Atturney became a sutor to my Lord Mayor for their liberty which his Lordship granted upon condition Mr. Atturney would undertake they should the day following submitt themselves to his Lordship. On

<sup>1</sup> Harleian MSS. Vol. 390, fo. 339, 343.

Wednesday after dinner Mr. Palmer, &c, &c, came to my Lord's house and there in the presence of Mr. Attorney, Mr. Recorder and 6 Aldermen acknowledged his fault to his Lordship and craved pardon and besides promised to repay the money he had gathered and to do reparations upon broken dores. Thus the game ended."

The Attorney-General here mentioned was Sir Robert Heath, who had served as Reader and Treasurer of the Inner Temple and, in succession to Richard Martin, as Recorder of London.<sup>1</sup> This escapade finds no place in the Records of the Benchers, but a faint echo of it may be detected in the appointment of a Bench Committee during the following November to look into former Acts of the Inn concerning Christmas and propound such other things as they should think convenient for the taking away all disorders in time of Christmas.<sup>2</sup> Upon the report of this committee eleven rules were adopted for the future regulation of Christmas keeping at the Inner Temple. The first of these provided that Commons at Christmas should only be continued for three weeks and no longer. The second, third, and fourth dealt with the Stewards for Christmas and enacted (*i.a.*) that these officers should always be chosen from gentlemen under the Bar who had chambers in the House, so that they would be responsible for the monies they received. The fifth excluded from any Christmas repast all strangers and such as had not been in ordinary Commons of the House within the two years last past. The sixth forbade any allowance of wine except "one pottle" at the Steward's Mess. The rest may be set out verbatim :

"7. That there bee noe drinking of healtthes nor anie Wine or Tobacco uttered or sold within the house : 8. That there shall nott bee anie knocking with Boxes or calling aloud for gamesters : 9. That noe play shalbe continued within the house upon anie Saturday night or upon Christmas Eaven att night after twelve of the clock : 10. That there shall nott bee anie going abroad out of the circuite of this house or without anie of the gates by anie Lord or other Gentleman to breake open anie house or

<sup>1</sup> Subsequently C.J. of the Common Pleas and King's Bench : see Foss, VI, 320 ; D.N.B. XXV, 346.

<sup>2</sup> A.P. II, 169.

chamber or to take any thinge in the name of Rent or a Distress: 11. That for preventing of quarrells within the house and that generall scandall and obloquie which the house hath heretofore incurred in time of Christmas there shall noe Gentleman of this house side with any person whatsoever that shall offer to disturbe the peace and quiett of the house Butt shall endeavour to punish them according to the old custome of the house And that noe stranger bee suffered to come within the hall butt onelie such as shall appeare and seeme to bee of good sort and fashion." <sup>1</sup>

These rules, however, proved insufficient to check the prevailing licence, for the Christmas of 1633 was marked at the Inner Temple "to the dishonour and scandal of the house" by such "great and insufferable misdemeanours and disorders," <sup>2</sup> that another committee was appointed to deal with the matter. The autumn of 1634 proving an unhealthy one, and sickness and various infectious diseases "reigning and increasing," Commons at Christmas that year were stopped on November 23rd by order of the Benchers. But only to produce worse evils, for here also the junior members of the Society broke open the doors of the Hall and other offices, and setting at defiance the orders of the Bench, held a Christmas of their own which they continued for five weeks.<sup>3</sup>

As at the Middle Temple, the trouble culminated in 1639, when by order of the Bench Commons at Christmas were again stopped, the Benchers declaring the recent disorders to have been

"to the greate offence of Almighty God the dishonor and scandall of this Society, the most dangerous infection and corruption of the civill company and the members thereof and the manifest prejudice of the House in divers respects tending to the ruine and subversion thereof if it be not timely prevented." <sup>4</sup>

Accordingly, the Hall, Buttery, Kitchen, and other rooms and places of like public office were once more locked up for the Christmas Vacation and the keys deposited this time with the Treasurer.<sup>5</sup> Thus defeated, the junior members of the Society presented a petition or remonstrance to the Lords of

<sup>1</sup> A.P. II, 195 (November 27th, 1631).

<sup>2</sup> *Ibid.* 215.

<sup>3</sup> *Ibid.* 220, 223.

<sup>4</sup> A.P. III, 19.

<sup>5</sup> *Ibid.*

the Council claiming that in Christmas time government in the Inner Temple belonged by immemorial custom to the gentlemen below the Bar.<sup>1</sup> They even went so far as to assert that the authority of the Bench of the Inn was limited to Term time and that in ordinary vacations Masters of the Bar ruled. Further, in regard to the recreation of gaming, they declared that without the admission of strangers and the profits made out of dice play the Christmas expenses could not be met; and that such play—their ancient privilege—likewise enjoyed at Gray's Inn and Lincoln's Inn was being taken from them and transferred to those Houses. They also craved leave to be the reformers of their own disorders. What was the fate of this appeal to his Majesty's Council is not disclosed; but as there appears to be no record of any interference by the Council with the government of the Society at this time, it seems obvious that whatever view they took was not one favourable to the junior members of the House whose pretensions were wholly groundless. Indeed, it seems hardly credible that the Council should have given any support to persons who had the effrontery to maintain that organized gambling with strangers was a proper way to defray the Christmas expenses of a College of lawyers.

In both Inns there is again evidence of the old difficulty in obtaining payment of Commons and the tendency to absenteeism continues, necessarily increasing the cost to those still attending. In each Society there were rules making it incumbent upon members (especially the junior ones) to keep Commons in the House if in the Town or its suburbs during Term and Vacation times. Members who evaded this obligation were liable to be charged for the Commons they neglected to keep. The penalty for this evasion was known as *visus in villa*, and for the purpose of enforcing it servants were instructed to enter the names of absentees in the Commons Book.<sup>2</sup>

A Minute of the Middle Temple Society, dated as early as June 16th, 1626, recites that the fellows of the House have much discontinued their wonted manner of living together, usually betaking themselves to lodgings in the town

“as forrainers rather than as fellowes associated together for cohabitacon, to their own prejudice and danger, the evill example of others the impayring of mutuall comerce amongst themselves and the decaye of learned exercises.”<sup>3</sup>

<sup>1</sup> State Papers Dom. (1639-40), Vol. CCCCXLVI, No. 46; Cal. 304, 305.

<sup>2</sup> A.P. I, 178, 209; II, 63, 148, 169.

<sup>3</sup> C. 204.



Again, on April 25th, 1634, this matter is further noticed and made the subject of a special order :

“ Because the Masters of the Benche doe conceive upon good reason that the continuance of the gentlemen togeather in Comons is one maine and principall meanes of the maintenance of the Society and easing the charge of Comons which is now growne much higher then in former times ; They doe hereby further order that from henceforth everie gentleman of this house (not being a house keeper in or neere the towne) that shalbe seene or knowne to be and remaine about the house or in town in terme or reading times and not in Comons shalbe cast into whole Comons.” <sup>1</sup>

In October, 1640, the Bench having succeeded in reducing the cost of Commons to 6s. 6d. weekly in vacations and 6s. 10d. in Term time, again lay stress upon the importance of keeping Commons in the House, commending the wisdom and care of former Benchers, governors of the Society, who

“ hathe in a speciall manner beene employed to the holding together in Comons the companie of this Fellowship in their publique hall as a thing wherin principally consisted the Comon honor and the peculiar good of everie particular member and without which a companie so voluntarily gathered together to live under government could hardly be termed a Society.” <sup>2</sup>

There is much information regarding the servants or officers employed by the Middle Temple Society during this reign, as their remuneration in wages and allowances was reviewed and fixed anew on June 27th, 1628. In the directions then given the following servants are mentioned : the Steward, Chief Butler, and four Puisne or Under Butlers, the chief Washpot and two Under Washpots, the Chief Cook and Under Cook, Turnspit, Panyerman, Porter, Gardener, and Laundress.<sup>3</sup> Of these the Steward, Chief Butler, Chief Washpot, Chief Cook, and Panyerman each received an annual wage of £2 13s. 4d.,<sup>4</sup> but in addition had many special allowances. Thus the *Steward*,

<sup>1</sup> B. 127.

<sup>2</sup> B. 236.

<sup>3</sup> B. 18.

<sup>4</sup> The Steward received the same wage in the reign of H. VIII. The Chief Butler and Chief Cook in 1638 were raised to £3 6s. 8d.

besides living quarters provided for him in the House, had free diet for himself and one man, and poundage (at what rate is not stated) for money paid out of his purse for bread and beer in the Buttery, for grocery ware, and other things brought in from the Chandler and Panyerman to the kitchen, and for coals, billets, and faggots used there; also 1*d.* from every man in Commons for one whole term to remunerate the porter who brought the meat to the House; and "3*d.* for a repaste," though what the last item means is obscure. The *Chief Butler* also had free diet for himself and his man when Commons were kept in the House. He was further entitled to 2*s.* from every gentleman at his first coming into Commons as well as "the waste drinke, dropping of tappes, and the broken drinke in the cellar, besides that which the poore have."<sup>1</sup> The *Chief Washpot* was allowed the remainder of one of the left messes of meat from the Bench table, and free bread and drink for himself, but he was not permitted to carry anything out of the House nor to exact any thing of the Benchers' clerks at the end of the term, "but at their will and curtesie." The *Chief Cook* also had free diet for himself and his man. Further, the dripping of the meat dressed in the kitchen and the kidneys of loins of mutton were his perquisites as his predecessors had been used to have them; also 5*s.* for "sauce and gellie when occasion doth require," and 13*s.* and one apron from the Steward of the Reader's Feast, "but not to have anye fatt or bone of any of the surloynes of Beefe." He had also demanded a gratuity of 40*s.* from the Reader and the bones of venison in the Reading time, but as to these claims he was left "to the curtesie and pleasure of the Reader so the same shall in no way charge the house."<sup>2</sup> The *Panyerman* was likewise allowed his own diet, and had 12*d.* weekly for bringing in salt and sauce into the Hall, an allowance which this servant had enjoyed for the last thirty years.

As to the other servants, the four *Under Butlers* received a wage of 20*s.* each per annum and their diet when in Commons

<sup>1</sup> But not the cask left by the Reader, except by the Reader's courtesy.

<sup>2</sup> The grasping habits of the Cook also had to be restrained in the Inner House as appears by an order made there June 17th, 1632: "That no coxcombe pasties (as they term them) being a late innovacon shall bee allowed unto the Cooke out of Mr. Reader's venison neither shall hee take the cheynes of his samons or anie other fees out of his meate and provision being all newe encroachments; And alsoe that the Cooke or any other officer of the Howse shall not demande of Mr. Reader any other fee then what was constantlie payed before 1<sup>o</sup> Jacobi and that Mr. Reader for avoiding of presidents which may charge his successors shall not pay any other fees to any officer of the Howse then such as have bene anciently payed": A.P. II, 199.

and attending the service of the House. They had also an equal share in the Buttery Book collected in Easter Term, and each was allowed poundage on such money as he collected on the Pensions', Preachers', or Serjeants' Roll. Further, the Puisne Butler received 12*d.* for recording the first moot of every gentleman, and 3*s.* 4*d.* from every gentleman called to the Bar. The two *Under Washpots* were allowed part of the broken bread "besides that given to the poore," and the leavings of the meat which came from the clerks and officers "but no other bread without delivery of the Puisne Butler and no drinke to carrie out of the house." The *Under Cook* received a wage of 40*s.* per annum, and was also allowed his diet at the charge of the House; the ashes of the wood and fire spent in the kitchen; the "kitchen stuffe"; and part of the broken meat in the Hall—"as hath beene anciently used by his predecessors"; but a claim he advanced to 6*s.* 8*d.* from the Stewards of the Reader's feast, "being confest by him to be their free guift," was left to the will and pleasure of such Stewards. The *Turnspit* had a wage of 26*s.* 8*d.* per annum, also a loaf of bread at any meal and a pot of beer, and a share with the Under Cook in the broken meat taken up in the Hall.

The Porter, Gardener, and Laundress received no diet from the House and consequently larger wages. The *Porter* had £5 10*s.* per annum and free lodging by the Gate as well as the rents of three shops there and three several sums of 26*s.* 8*d.* for sweeping the Lane and Courts, cleansing the houses of office, and cleansing and looking about the House. The *Gardener's* wage was £6 13*s.* 4*d.*, and he was also entitled to a place to put his tools and barrow, "wherewith he useth to clense the garden and Courts." Lastly, the *Laundress* received £16 per annum. She seems to have thought that where so many lived at free quarters in matter of diet she also ought to share in the good things provided by the House, for to the statement of her remuneration is added the following note: "But allowance of Bread and Beere claymed everie time shée and her maide comes with cleane clothes which is three times everie weeke vid<sup>t</sup>—Sundayes, Tewsdays and Thursdayes, is disallowed."

One other point of interest emerges from the record of the servants' allowances at this time. It seems that the Masters of the Bench were sufficiently luxurious to provide themselves with cushions to sit upon at the High Table, for sums of 10*s.* and 5*s.* respectively claimed by the Puisne Butler and the Panyerman for carrying into and out of Hall "the Cushens of the Bench

table " were also disallowed ; it being added, however, that the service was none the less to be performed as before.<sup>1</sup>

The most remarkable item in the foregoing account of the wages paid by the Inn is the sum received by the Laundress which indicates a change in table habits and a more lavish use of table linen than formerly. In the reign of Henry VIII she received a wage of only 6s. 8d. per annum.<sup>2</sup> In 1575 her pay then £1 was raised to 26s. 8d.<sup>3</sup> In 1586 it was increased to £4,<sup>4</sup> and at the close of Queen Elizabeth's reign she received a yearly salary of £6 13s. 4d.<sup>5</sup> In April, 1605, the Laundress petitioned the Benchers for extra remuneration, alleging that wood and coals were much dearer and that there were more cloths, towels, and napkins to be washed, and oftener, than at her first coming. She was allowed a rise of 32s.<sup>6</sup> Three years later her wages had advanced to £11 12s., and on that figure she was allowed a further increase to £13 6s. 8d. for one year.<sup>7</sup> This, however, appears to have been still insufficient, for on November 26th, 1613, her wage was raised on the Treasurer's report to £16 ;<sup>8</sup> the sum at which it appears in the Brerewood MS. This advance in the wage of the Laundress is the more remarkable in view of the fact that while her remuneration had more than doubled since the close of Queen Elizabeth's reign, the Gardener's remuneration £6 13s. 4d. remained what it had been in 1594,<sup>9</sup> and the Under Cook with £2 per annum was receiving no more than the wage paid to the same servant in 1576.<sup>10</sup>

In regard to the appointment of servants of the Society it may be here stated that at a parliament of the Middle Temple held on February 6th, 1607/8, it was resolved that the bestowing of offices and the placing and displacing of officers belonged to the Bench and not to the Treasurer, without the consent of the Bench ; but that in the absence of the Bench he might place an officer *de bene esse*, to be allowed or disallowed by the Bench next term. At that time it was also ordered that in cases of vacancies, under officers should succeed to the higher posts in preference to the appointment of strangers, unless they refused or the Bench thought them insufficient.<sup>11</sup>

<sup>1</sup> Most of the servants also shared in the proceeds of the Calveshead Roll to which members subscribed. This, originally a breakfast of Calves' heads, given by the Cook, the attendants at which gave benevolences to the servants, was in 1629 varied by the substitution of a Roll of members, called after the name of this breakfast.

<sup>2</sup> See *ante*, p. 114.

<sup>3</sup> D. 114.

<sup>4</sup> D. 181.

<sup>5</sup> D. 262.

<sup>6</sup> D. 334.

<sup>7</sup> D. 373.

<sup>8</sup> C. 64.

<sup>9</sup> D. 241.

<sup>10</sup> D. 119.

<sup>11</sup> D. 352.



Notwithstanding orders received from without and enactments passed within the Temple Societies for the exclusion of Attorneys and Solicitors, many such practitioners were still members of the Inns. Orders issued through the Judges by the King's Privy Council in 1635 gave a further direction as to this matter, viz. that "no common attorney or sollicitor be hereafter admitted of anye of the foure Innes of Cort."<sup>1</sup> Accordingly, at a parliament held on June 12th, the Benchers of the Middle Temple "conforming," as they said, "to the grave advice of the said Judges and in obedience to his Majesties command," proceeded to order:

"That the Act of parliament of this house touching non-admittance of comon attorneys made 25th June 3<sup>o</sup> and 4<sup>o</sup> Philip and Mary [1557] be from henceforth duely observed; and further, that a list be made of the names of the present attorneys and sollicitors of this house and entred into the parliament booke; and if anye gentleman from henceforth, after he shalbe admitted shall then become an attorney or shall practise as a comon attorney or sollicitor in anye of his Majestie's Corts [he] shall *ipso facto* be expelled the house."<sup>2</sup>

Pursuant to this order the names of thirty-two Attorneys then members of the Inn were entered upon the Minute Book.<sup>3</sup> As no further action is recorded in respect of these gentlemen it may be inferred that the new order was not intended to have any retrospective operation. They had probably become Attorneys after joining the Inn, but their presence in the House proves that the order of Philip and Mary had become a dead letter, for it too expressly provided that any member practising Attorneyship after his admittance should be dismissed *ipso facto* from the Company.<sup>4</sup>

Similar conditions evidently prevailed in the Inner Temple, for when a levy was there authorized upon all members of the House to meet the cost of new buildings adjoining the Hall and Fig Tree Court on November 23rd, 1629, Attorneys and Solicitors were assessed with officers of the King's Court at 23s. 4d. per head as a distinct class of contributors.<sup>5</sup> Consequent no

<sup>1</sup> B. 151.

<sup>2</sup> *Ibid.*

<sup>3</sup> B. 152: "A list of the names of such gent. of this house which doe now practise as Comon Attorneys."

<sup>4</sup> *Ante*, p. 158.

<sup>5</sup> A.P. II, 184. "Ayde Rolle" is the side note.

doubt upon the action of the King's Council, the Inner Temple Benchers now also legislated upon this matter (June 14th, 1635) in the following order :

“Whereas notwithstandinge severall orders heretofore made to the contrary certaine persons doe after such time as they are admitted of this Society practise as Attournies, Solicitors or Clarkes For prevention whereof hereafter It is ordered that if any person whoe hath beene admitted sithence the begininge of this present Terme or hereafter shalbe admitted of this Society doe from hence forth practize or imploy himselfe as an Attorney Solicitor or Clark the Admittance of such persone shalbe there-uppon *ipso facto* voide and hee noe longer to be accounted a member of this Society.”<sup>1</sup>

Further, on February 10th, 1638, another order was made forbidding the admittance of any Attorney or Solicitor to the Inner Temple from any Inn of Chancery and confining future admittances to students only.<sup>2</sup>

Irishmen were still regarded with suspicion at the Inns of Court and in November, 1641, the King directed letters patent under the Great Seal to certain Benchers of the Middle Temple Society in the following terms :<sup>3</sup>

“Charles by the Grace of God King of England, Scotland, France and Ireland Defender of the Fayth To our trustye and welbeloved Peter Ball Esq. Att. Gen<sup>l</sup> to our dearest Consort the Queene Richard Lane Esq Att. Gen<sup>l</sup> to our dearest sonne Prince Charles, William Whitaker, William Conyers Richard Townsend Talbot Pepys Richard Parker Tr<sup>or</sup> of the Societye of the Middle Temple Esquires Readers and Benchers of the Societye aforesaid and to the rest of the Readers and Benchers of the said Societye Greeting Knowe yee that We reposing assured trust and confidence in your fidelities wisdom and discretions have given and graunted and by these Presents doe give and graunt unto you or any fower or more of you full power and authoritye to tender and administer to all Irish students and other suspected persons within your howse and Societye and the severall Inns

<sup>1</sup> A.P. II, 225.

<sup>2</sup> A.P. III, 11.

<sup>3</sup> This seal (a fine impression of which is still annexed to these letters patent) was the third seal of Charles I, and the one sent to the King at York, May, 1642, to prevent it falling into the hands of Parliament.

of Chancery thereunto belonging the Oathe of Supremacye expressed and contayned in a certayne Act of Parliament made in the first yere of the Raigne of the late Queene Elizabeth And alsoe the Oathe of Allegiance expressed and contayned in a certayne Act of Parliament made in the thyrd yere of the Raigne of the (*sic*) late deare Father King James of blessed memory deceased Wherefore Wee will and comand you diligentlye to attend the execution of this our Commission which shalbe your sufficient warrant and discharge in that behalfe In witness whereof we have caused these our letters to be made patent Witness Ourself att Westm. the fifteenth day of November in the seventeenth yere of our Raigne.”<sup>1</sup>

Great Seal appended.

It is to this reign that the first record of an armorial device being used by the Society of the Middle Temple can be traced. It is found in the Brerewood MS. and reads as follows: “This honourable Societie beareth Luna on a playne cross Mars an Agnus tripoint port: a staffe crusely and streamer wavy Solis,” which rendered in less magniloquent language is *Argent* on a plaine cross *gules* an *Agnus Dei* trotting carrying a staff bearing a Cross and streamer wavy *Or*.<sup>2</sup> Though this is the earliest record of the Inn using an heraldic device the suggestion that arms of this kind might suitably be adopted by the Society was made in the reign of James I by Sir George Buc, Master of the Revels to that Monarch. In his treatise called “The Third Universitie of England,” he mentions the Templar devices of the *Agnus Dei* and the two knights mounted on one horse, adding:

“it is thought fit by men of art and authority in the affairs to retain both these ancient devises and Armes of the Olde Templers before mentioned for the choice and use of those two Colleges of Juriconsults placed in this ancient Temple or house of Templers.”

The Inner Temple Society, however, as already stated had assumed the Pegasus as their special cognizance in the reign of Elizabeth and were therefore “fairly armed.” Noticing this, Sir George Buc (himself a member of the Middle Temple) proceeds:

<sup>1</sup> From original in the possession of the M.T. Society.

<sup>2</sup> Fo. 1. *Crusillé* properly means a field sewn with crosses, but in this instance it probably signifies the staff crowned by a cross as it appears in the ancient Templar Seals.

"I will leave the choice of either of these old devises and ensigns to the gentlemen and fellows of the Middle Temple they not having as yet to my knowledge chosen or appropriated any ensign to their Society or College."<sup>1</sup>

These observations were first published in 1615,<sup>2</sup> and as the Brerewood MS. cannot be placed later than 1638, it seems beyond doubt that the assumption of arms by the Society took place some time between these dates, though precisely when is not known. With further reference to the Knights of the Temple Sir George Buc also states, "It appeareth upon record and in good authors that they bore a shield argent charged with a cross gules and on the nombril thereof a Holy Lambe," and this coat, he adds, he had seen "enlumined" in an ancient MS. book of the foundation and Statutes of the Order belonging to Lord William Howard of Naworth. He does not mention how the Holy Lamb was there represented, whether at rest or in motion, and no one has been able to discover who "the good authors" are, of whom he spoke thus confidently. Nevertheless, the conclusion can hardly be avoided that this description of Templars' Arms suggested the coat in fact assumed by the Middle Temple. Whether the Templars in England ever used such arms may be doubted. They do not appear on any of their known seals where the Holy Lamb is not placed upon a cross and is represented in what appears to be a stationary attitude.<sup>3</sup>

Whatever their origin these arms as described in the Brerewood MS. may be said to have received quasi-official sanction, for they were engraved as the arms of the Middle Temple Society by Sir William Dugdale (then Norroy, and later Garter, King of Arms) in his well-known work "*Origines Juridiciales*" first published in 1666.<sup>4</sup> No motto seems to have been adopted by the Inn with these arms; perhaps because the ancient legend used by the Templars with the Holy Lamb, *Testis sum Agni*, would hardly have been suitable for a Society of lawyers.

<sup>1</sup> Stow's Annals (Howe's Edit. 1631), 1072.

<sup>2</sup> D.N.B. VII, 171.

<sup>3</sup> Mr. Addison's statement that when the lawyers originally came into the Temple they found these arms engraved upon the ancient buildings of the Templars is not supported by any authority and can only be regarded as a flight of his too enthusiastic imagination: see *Knights Templars* (1853 Edit.), 310.

<sup>4</sup> See Editions 1666, 1671, and 1680, p. 308. It is a curious circumstance that neither of the Temple Societies seem to have taken any steps to obtain proper legal sanction for the arms they use by assumption.



## CHAPTER IX

### THE REIGN OF KING CHARLES I—*continued*

THERE was considerable building activity in the Middle Temple during the early part of the reign of King Charles I; chiefly, however, in the reconstruction of old chambers which had fallen into decay. Two buildings mentioned seem to have been new, one erected by the Treasurer (Richard Hadsor), in the first year of the reign, and to which seven admittances were granted on June 24th, 1626.<sup>1</sup> Four stories high, and described as adjoining the Hall, and over the parliament chamber, kitchen, and pantry, this building apparently fronted on to Middle Temple Lane.<sup>2</sup> The next Treasurer (Nicholas Hyde) was authorized to sell the chambers in it for one life in possession and one assignment. The sums subsequently paid for their interests by the members admitted ranged from £80 to £66 13s. 4d. The second new building is described as in the Garden, and was erected about the same time. There is less information in regard to it, but the site seems to have been on the west side of Middle Temple Lane, and just below the building above mentioned. The three puisne butlers were lodged here. The accounts for the erection of these buildings were passed by a parliament held on October 13th, 1626, and ordered to be entered in the Book (*in librum*),<sup>3</sup> but as no account book for this period can be traced, details regarding the outlay incurred cannot be given.

The next building operation was in Pump Court, the north side of which is described as "ruinous." In February, 1626, seven members of the Society petitioned the Bench for leave to rebuild these chambers. Permission was granted on the condition that the undertakers deposited in the Treasury £600 to cover the cost as estimated by skilful workmen.<sup>4</sup> The builders were empowered to sell any additional chambers obtained by the rebuilding and any chambers rebuilt, the owners

<sup>1</sup> C. 205, 206.

<sup>3</sup> C. 207, 208; M.T.R. 711.

<sup>2</sup> B. 162.

<sup>4</sup> B. 5 (February 9th).

of which refused to contribute to the cost, to any gentlemen of the Society for a life in possession and one assignment. It was also enacted that adjoining owners, whose chambers were inconvenienced by the rebuilding, should be taxed rateably to pay the undertakers for the benefit so accruing.<sup>1</sup> Later, on October 24th, 1628, it was further ordered that the undertakers and other gentlemen contributing to the cost, who had the "most roomthie chambers" in the old building, should be preferred in choice of the new chambers to those who had contributed little or nothing to the cost, and had formerly occupied the "streightest chambers" of those pulled down.<sup>2</sup>

The total outlay, including £73 6s. 8d. for a new and wider staircase, which also gave improved access to some other chambers, was £753 6s. 8d.<sup>3</sup> The building as reconstructed was four stories high, and contained besides a cellar, sixteen chambers, which were valued (April 24th, 1629) as follows: <sup>4</sup> First floor, four chambers, £43 each; second floor, four chambers, £50 each; third floor, four chambers, £42 10s. each; fourth floor, four chambers, two £30 each, one £39, and one £33. The cellar was valued at £10. The apportionment figures for the staircase varied from £8 to 10s., according to the value of the benefit received.<sup>5</sup> The general rule was that two members must be admitted to each chamber. The following admittance of January 22nd, 1629, to one of these new chambers illustrates the nature of the accommodation provided:

"Richard Pepys Esq<sup>6</sup> to half an outer chamber on the third story in the new buildings in 'le Pumpe Court' on the East side; to a woodhouse on the West side; to a bedroom adjoining it on the North and to a study adjoining the bedroom on the East."<sup>7</sup>

The rebuilding in Pump Court led to a dispute with the Inner Temple Benchers, who contended that the new chambers exceeded the line followed by the former building, and so encroached upon their ground in Hare Court. Some conference

<sup>1</sup> B. 5.

<sup>2</sup> B. 21.

<sup>3</sup> B. 26, 28 (February 6th, April 24th).

<sup>4</sup> B. 26.

<sup>5</sup> B. 27.

<sup>6</sup> Autumn Reader, 1640; Treasurer, 1648; Serjeant, 1654; Chief Justice of Ireland and Commissioner of the Great Seal there, 1655; an ancestor of L.C. Cottenham.

<sup>7</sup> As translated, M.T.R. 754. For Latin, see B. 34.

took place between the Houses as to this, and as to the bounds and limits of their respective holdings in the Temple,<sup>1</sup> but no agreement was reached, and in the end the Hare Court dispute had to be settled in Chancery, where it was disposed of by Lord Keeper Coventry, a former Treasurer of the Inner House.<sup>2</sup> The terms of settlement do not appear in the Benchers' Minutes, but the Accounts of the Inner Temple for the year 1637-8 include a payment from the Middle Inn of 1s. "for a certaine quantity of grounde whereon their new buildings adjoyninge Hares Court standeth," which seems to show some small encroachment had taken place.<sup>3</sup>

The next rebuilding was on the east side of Middle Temple Lane, near the Great Gate to Fleet Street. Here the building erected by Sir Walter Cope and Sir Arthur Gorge was taken down<sup>4</sup> and a new one erected on the site. This was in the long vacation of 1629. As the former building had only existed eighteen years and is not described as defective, the reason for its removal is not apparent. The work was carried out at the expense of the Inn, and on April 16th, 1630, the Treasurer was empowered to sell the new chambers for the benefit of the House for a life and one assignment.<sup>5</sup>

In the following month it was resolved to rebuild the chambers on the south side of Elm Court, towards Middle Temple Lane, and an order was made requiring all the gentlemen in those chambers who desired to be accommodated in the new building to pay to the Treasurer before the ensuing Michaelmas Term such sum as would rateably defray the cost of the new building.<sup>6</sup> This project, however, hung fire through the backwardness of some to contribute till two years later, when, in view of the dangerous state of the old building, a peremptory order was made (May 11th, 1632) that it should be taken down, and the site cleared for rebuilding before the end of Hilary Term next.<sup>7</sup> The rate of contribution to the new building was fixed at £40 for a single chamber, and £80 for a double one—half to be paid in Trinity Term and half in Michaelmas. The interest conceded was one life in possession and one assignment.<sup>8</sup> On February 7th, 1633, the following directions were given to guide the Treasurer in granting the new admittances: (1) The

<sup>1</sup> A.P. II, 167, 173.

<sup>2</sup> I.T.R. II, Intro. lxxv.

<sup>3</sup> Gen. Acct. Bk. I, 257.

<sup>4</sup> B. 32; June 19th, 1629: "To be pulled downe and new builded this vacacon nowe coming."

<sup>5</sup> B. 42.

<sup>6</sup> B. 47 (May 7th, 1630).

<sup>7</sup> B. 91.

<sup>8</sup> *Ibid.*

gentlemen chambered in the old building (twenty-three in number) were to be admitted to the first three floors, and to the two double chambers on the fourth floor; (2) among former tenants Masters of the Bench were to have the first choice, and after them those who had paid their contributions as required, in order according to their antiquity of admittance; (3) those who had defaulted in payment of contributions were to have such chambers as the House allotted them, and in making such allotment regard was to be had to what was to the advantage and profit of the Society.<sup>1</sup>

The records of admittance to these chambers (March 25th to 31st, 1634) are similar in form to those of the Pump Court building.<sup>2</sup> One of the tenants of this building was Master Robert Brerewood, subsequently Reader (Lent, 1638), Serjeant-at-Law (1640), King's Serjeant (1643), and Justice of the King's Bench (1644). His admittance was to half an outer chamber on the first floor towards the west.<sup>3</sup>

There was also about this time some rebuilding of chambers over the porch of the church in which both Societies were interested. A committee to deal with this was appointed in May, 1631.<sup>4</sup> The building as reconstructed was at least three stories high, as appears from an admittance to a half chamber in it granted October 29th, 1632, for which £36 was paid.<sup>5</sup>

In October, 1637, a further committee was appointed to consider "the decaied and ruinous buildings betweene the Vine Cort the Elme Cort the Pumpe Cort and the Middle Temple Lane." In the following February it was decided to rebuild here also, but to delay operations till the end of Trinity Term to give the gentlemen chambered in the old building time to remove their things and that "the house for these twoe next terms neere following one upon another may be free from anoiance and cumber."<sup>6</sup> As in the case of Elm Court, the sums to be paid by the contributors who desired to be reinstated in the new buildings were fixed at £40 for a single chamber and £80 for a double one. The Minutes of parliament throw little light on the nature of these buildings. But it appears that they were five stories high besides the cellars, and cost the large sum of £4468, of which £2300 was contributed by the former tenants. They took more than two years to complete

<sup>1</sup> B. 122.

<sup>2</sup> B. 124, 125.

<sup>3</sup> B. 125. At one time the owner of the MS. account of the Inn which bears his name.

<sup>4</sup> B. 66.

<sup>5</sup> B. 100 (David Williams).

<sup>6</sup> B. 189.



and seem to have left the Inn with a considerable burden of debt.<sup>1</sup>

Part of these new buildings adjoined the east side of Middle Temple Lane, and overlooked the open space then called the Hall Court. On June 20th, 1640, George Evelyn and his younger brothers John (the Diarist) and Richard were here admitted to a fourth-floor chamber which their father had purchased from three Utter Barristers, each entitled to one-third share as contributories to the rebuilding, and who had nominated the Evelyns as persons to whom they had transferred their interests. One of these Barristers was John Lisle, the future regicide and Commissioner of the Great Seal under the Commonwealth.

John Evelyn was at this time twenty years of age, and in his Diary there is the following reference to this event :

“ 10th June [1640] I repaired with my brother to the Tearme to goe into our new lodgings (that were formerly in Essex Court) being a very handsome apartment just over against the Hall-Court, but four pair of stairs high which gave us the advantage of the fairer prospect, but did not much contribute to the love of that impolish'd study to which I suppose my Father design'd me when he paid £145 to purchase our present lives and assignments afterwards.”<sup>2</sup>

The buildings thus taken down and rebuilt had included three small shops, a tailor's shop in Pump Court, a stationer's shop in Vine Court, and a barber's shop towards Middle Temple Lane.<sup>3</sup> Accommodation was found for these in the new building.

Other shops in the Middle Temple to which allusion is made about this time were two shops under the Great Gate the rents of which were a perquisite of the Porter, a bookseller's shop,

<sup>1</sup> See O.J. 189, 190 ; where Sir Wm. Dugdale sets out particulars from Accounts not now available.

<sup>2</sup> *Memoirs* (Edit. 1818), I, 8. John Evelyn had been admitted to the Inn before he went to Balliol College, Oxford, and while still a schoolboy. His younger brother Richard had joined five days before the above admittance to chambers. He seems later to have changed his mind about the “impolished study,” for he condemned his own son to it as the following entry in his Diary, dated May 2nd, 1672, shows : “My son John was specially admitted at the Middle Temple by Sir Francis North his Majesty's Solicitor General and since Chancellor [? Lord Keeper]. I pray God bless this beginning, my intention being that he should seriously apply himself to the study of the law.”

<sup>3</sup> B. 261.

also at the same Gate, in the occupation of a spurrier, and another bookseller's shop at the entrance to the churchyard, on the south side of the church.<sup>1</sup>

One further building operation remains to be noticed. This was a brick wall enclosing the lower garden walks of the Middle Temple, towards the Thames. It was authorized May 12th, 1648, upon a petition signed by thirty members of the Inn.<sup>2</sup> Subsequent entries in the accounts show that the work was carried out with the assistance of the Bench. The manner of executing it, however, was left to the discretion of the Petitioners, for opposite the record of the first contribution by the House, 100 marks,<sup>3</sup> are the words, "The gentlemen to perform the work."<sup>4</sup> A year later the gentlemen presented an account of the charges for this new wall, and the steps, gates, and other things touching the same, amounting to above £100, and desired further supply from the House towards defraying the cost. Another £10 was allowed them by the Benchers on June 8th, 1649, but with the guarded statement that for any further supply they would take longer time to consider, till they might see to what issue the great charge they had been already at would succeed.<sup>5</sup> The matter, however, did not end here, for having enclosed their garden, a petition was next presented by the gentlemen suggesting a levy on the members of the Inn to defray the expense of beautifying it. The fate of this further proposal is disclosed by a Minute of November 23rd, 1649 :

"The peticon of gentlemen subscribed by 111 for an imposicon and collecon to be made upon a Rol towards the beautifying and garnishing their garden enclosed with a new bricke wall, is denied ; And their Masterships in lieu thereof towards that worke have allowed and granted them out of the Treasorie £50 to be paid as it may be conveniently raised and the charge in the progresse in the worke requires, resolving to be at no further charge touching that worke."<sup>6</sup>

During the early years of this reign building was also going on in the Inner Temple. In 1629 the Crown Office was there rebuilt with chambers over it at a cost of £1010.<sup>7</sup> The site is described as follows : "The said Office and divers chambers alsoe upon the old foundation as alsoe upon a new foundation

<sup>1</sup> B. 13, 69, 252.

<sup>2</sup> B. 328.

<sup>3</sup> £66 13s. 4d.

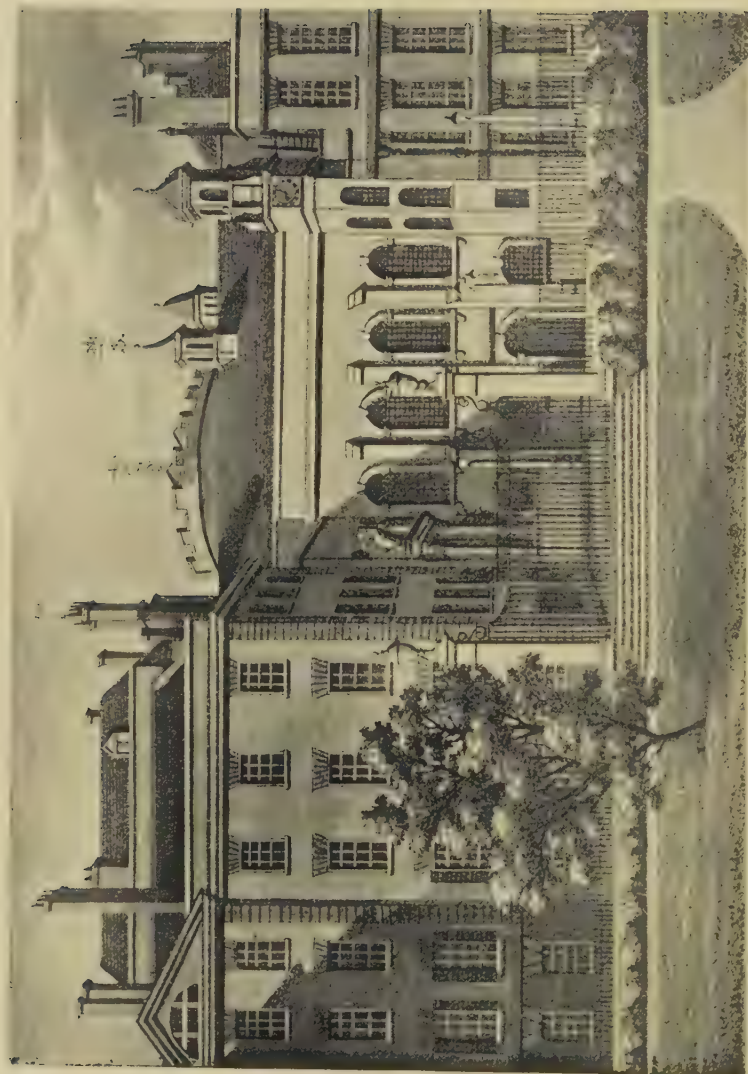
<sup>4</sup> M.T. Cal. 159 (July 10th).

<sup>5</sup> B. 348.

<sup>6</sup> B. 355.

<sup>7</sup> A.P. II, 173.





*S. Ireland del.*

ANCIENT HALL OF THE INNER TEMPLE, 1800.  
South Front, with Crown Office Chambers adjoining.



in the West corner of the Garden are nowe in building according to a plott drawn and agreed upon." From subsequent references to it the new building seems to have extended westwards to Middle Temple Lane and occupied much the same position as the modern Crown Office Row. A "faire building" was likewise erected between the Hall and Figtree Court, pursuant to a resolution of November, 1629. This involved the reconstruction of stairs leading to the Hall and certain adjoining offices.<sup>1</sup> The work done is specified in the Accounts of the Inn for the year 1630-1, as follows :

"Imprimis paid for the whole charge of new buildinge of the Hall Staires, the Wine Cellar, the Colesellars and Larders, the Kitchine, the Pastrie, the Roomes betweene the Hall and the Kitchin with all the chambers over the Kitchin and neere adjoyninge towards Figtree Court and towards the Garden Dore and the charge of sinkinge the ground for the Larder, Sellers and foundacon, of the said new building, and carring awaie all the earth that was digged uppe there and for the charge of making and setting uppe another Kitchin to dresse the Comons in during such time as the said new Kitchin was in buildinge." <sup>2</sup>

It cost the large sum of £2862 19s. 3d. Erected by the Society, the stock of the House proved insufficient to meet the outlay, and a levy for the purpose was made upon an "ayde rolle," Benchers paying 40s.; Utter Barristers (not vacationers), 30s.; Vacationer Barristers, 26s. 8d.; gentlemen under the Bar, who were officers of the King's Courts, Attorneys, and Solicitors, 23s. 4d.; and all other members under the Bar, 20s.<sup>3</sup>

The rebuilding of the chambers over the church porch, in which both Inns participated, in 1631-2, has been already noticed. It was followed in November, 1635, by the reconstruction of other chambers in the Inner Temple, described as "very ruinous," which stood between Keeling's Chambers and the Alienation Office. These cost the Inn a further outlay of £251 3s. 3d.<sup>4</sup> It appears that the condition of the Hall of the Inner Temple was at this time unsatisfactory, and causing the Benchers considerable anxiety. There is reference to

<sup>1</sup> A.P. II, 173, 184, 186, 187.

<sup>3</sup> A.P. II, 184.

<sup>2</sup> Gen. Acct. Bk. I, 211.

<sup>4</sup> *Ibid.* 225.

this in a Minute of November 25th, 1632, which reads as follows :

“The ruynes and decaye of the dyning hall of this howse being taken into consideracon And the building of a newe halle beeing much desired by this Societie And the greatest parte of the Bench nowe present willingly offering a large contribucon towards the same, yett forasmuch as soe greate a work will surmount a farr greater charge then the voluntarie contribucon of the gentlemen usually residing in Comons and the stock of the Howse will bee able to defraye without some extraordinary addicon thereunto ; It is therefore thought meete and soe ordered that there shall bee a Rowle or list made of the names of all the nobillity, Judges, and gentrye of this Kingdome that are members of this Society to the end it may bee knowne what every such person will voluntarily give towards the effecting thereof before any further proceeding bee had therein.”<sup>1</sup>

Whether an appeal of this kind was actually made, and, if so, what response it elicited, does not appear. But as nothing further seems to have been done in the matter, the project evidently was given up. Perhaps the heavy expenditure already incurred on the Crown Office and other buildings above mentioned rendered it impracticable to raise a further large sum from the members of the House at this time.<sup>2</sup>

A number of small shops also existed in the Inner Temple. Objection was taken to some of these in April, 1635. One was a joiner's shop, where work was carried on for strangers to the annoyance of members. It was ordered that the tenant of this shop be removed. Another shop near Ram Alley gate was occupied by a person who pretended to vend stationer's goods, but also sold or uttered tobacco, and was the occasion of much disorder. A third shop was kept as a “sempsters” shop by certain women near the great door of the church, which was “conceived to be very unfitt.” So the tobacconist and the women were ordered to be “absolutely removed out of the said shops,” the Bench being of opinion there ought to be no shops

<sup>1</sup> A.P. II, 203.

<sup>2</sup> It was not until 1868-70 that the desire for a new Hall, expressed as above, was at last gratified in the erection of the very handsome Hall which the Inner Temple Society now possess.

within the House but only for the selling of books and parchment and the like.<sup>1</sup>

The peculiar phraseology of the letters patent of King James I, by which the rents of £10 each paid by the Temple Societies were charged upon the whole Temple property, may have arisen from the circumstance that, while the metes and bounds of the New Temple were well known, the separate holdings of the two Societies therein had never been accurately defined, or were not capable of proof in 1608 by any existing documents. At any rate, when there was occasion for rebuilding disputes were apt to occur as to the limits of the sites the Societies were respectively entitled to occupy. Taught, no doubt, by the trouble of this kind in which the rebuilding of the Pump Court Chambers had involved them,<sup>2</sup> the Inns now appointed what appears to have been a standing joint committee to settle by conference in a friendly way any future dispute which might arise between them. The record of this is found in a Middle Temple Minute of January 29th, 1635, and reads as follows :

“ Sir Henry Calthorpe Kt. Attorney of the Court of Wards and Liveries and Master Lane the Prince’s Attorney are nominated and appointed Committees to joyn with Mr. Solicitor<sup>3</sup> and some other Bencher of the Inner Temple by them to be appointed to settle and accommodate in an amicable waye all matters of question and controversie that are or maye be raised betweene the Houses to prevent publike scandall and to preserve peace and unitie betweene the Societies.”<sup>4</sup>

Later, on October 13th, 1637, Sir Henry Calthorpe having died, the Middle Temple Benchers appointed in his stead for this purpose Master Robert Tanfield of their Society.<sup>5</sup>

The anonymous account of the Middle Temple Society compiled in the reign of King Henry VIII, contained a statement that the Inn had then no library.<sup>6</sup> For more than a century this condition of things had continued ; but now when civil war was looming on the horizon, this want was at last supplied through the benefaction of a member of the House. At the beginning of October, 1641, there died “ in a good old

<sup>1</sup> A.P. II, 223, 224.

<sup>3</sup> Sir Edward Littleton, later Lord Keeper.

<sup>4</sup> B. 160.

<sup>5</sup> B. 178.

<sup>2</sup> See *ante*, pp. 374, 375.

<sup>6</sup> See *ante*, p. 125.

age" at his chambers in the Middle Temple, Robert Ashley, one of the most ancient Masters of the Utter Bar, and on the 4th of that month his body was laid to rest in the Temple Church.<sup>1</sup> Born in 1565, the second son of Anthony Ashley of Damerham, Wiltshire, he had entered Hert Hall, Oxford, at the age of fifteen. Thence, after some years' study, he proceeded to New Inn, and was admitted to the Middle Temple on October 8th, 1588.<sup>2</sup> In due course he was called to the Bar on October 24th, 1595,<sup>3</sup> but his chief interests did not lie in the Courts, and the prizes of the legal profession seem to have had little attraction for him. By instinct a citizen of the world, the bent of his mind drew him to the study of foreign countries and their languages. His tastes and predilections are best indicated by his own words :

" Having during my younger yeares had some trayning in the Arts and Learned Languages in the famous Universitie of Oxford : and by advice of experienced friends having after seriously sought to attaine the knowledge of the Lawes under which wee live in the place where they are professed : and having beene long since ingaged and denominated among the Professors thereof : yet finding the practise to have ebbes and tydes ; (as have for the most part all other humane employments) I have stolne and snatched at vacant times some opportunities what by Travaile, Bookes and Conference, to get some knowledge of forreigne Countries and vulgar Languages ; especially those of our Neighbours (I meane the French and Dutch, the Spanish and Italian) that by the perusing of their Writings I might also bee made partaker of the Wisdome of these Nations." <sup>4</sup>

Thus associating with the learned of foreign countries, and frequenting their public libraries, he returned from his travels, says Anthony Wood, " a very knowing and complete gentleman." <sup>5</sup>

In the course of his long life Robert Ashley had acquired a varied and extensive library, which by his will he bequeathed

<sup>1</sup> Burial Register (T. Ch.): see I.T.R. II, 358, 359.

<sup>2</sup> D. 195.

<sup>3</sup> D. 250.

<sup>4</sup> Life of King Almansor (1627); see Advert.

<sup>5</sup> Athenæ Oxon. (Bliss), III, 21.



"to this noble Society of the Middle Temple in which I have spent so many yeares of my life how unworthy soever yet a member thereof,"<sup>1</sup> together with the sum of £300, for the better maintaining some keeper of the books to be chosen by the Bench for that purpose. His will, dated September 27th, 1641, was entered on the Minutes of parliament pursuant to the following order :

"The Masters of the Bench taking into their consideracon and thankfully acknowledging the great love and bountie of the said Master Ashley towards this Society in his said will expressed, have unanimously agreed and soe declared and ordered that the said last will and testament be entered at large verbatim into the parliament booke of the said Middle Temple there to remain and continue *in perpetuum rei, hominis, et gratitudinis memoriam.*"<sup>2</sup>

The Benchers further resolved

"that Mr. Attorney Ball<sup>3</sup> and Dr. Littleton<sup>4</sup> be entreated to look over and survey the said bookes given as aforesaid and that a Catalogue or Inventorie be made of them and that presses be made in the lower parliament Chamber, therein to laye and preserve them safe, untill a Librarie or place convenient to settle and dispose them in, be provided."<sup>5</sup>

Meanwhile the legacy of £300 was paid into the treasury of the Inn, and £8 per cent. allowed by the Society as interest thereon.<sup>6</sup>

On April 29th, 1642, Master William Cox (one of Ashley's executors), an ancient fellow of the House, who in the preceding January had been honoured with the degree of the Utter Bar for his care and fidelity in the matter of these legacies, was appointed first keeper of the Library,<sup>7</sup> and directed to keep the books under lock and key in the places provided for them as above until a Library was built.<sup>8</sup> A trusted friend of the testator, he served in the office until the close of his life, eleven years later. His first care was to prepare a catalogue of the

<sup>1</sup> B. 260.

<sup>2</sup> B. 259.

<sup>3</sup> Peter Ball, the Queen's Attorney.

<sup>4</sup> Master of the Temple.

<sup>5</sup> B. 261.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> B. 261, 265.

books, for which £5 was allowed him on May 12th, 1643.<sup>1</sup> Unfortunately this catalogue no longer exists. Sixty volumes, however, can still be identified as belonging to Ashley's collection. With one exception these are all in Latin or some other foreign language. Besides books on history, geography, and philosophy, the bequest included works on chemistry, astrology, theology, demonology, and witchcraft.<sup>2</sup> Some of these subjects may appear sufficiently remote from the study and practice of the Law, but the Inn has always wisely entertained the opinion that to the cultured lawyer no knowledge in any sphere of intellectual activity comes amiss.

The description of the incumbent of the Temple Church in the royal letters patent of 1608 as "Master or Keeper of our House and Church of the New Temple London,"<sup>3</sup> no doubt followed the words used to describe the principal priest of the church in the patents by which the Crown had appointed to the office since the confiscation in England of the property of the Order of St. John of Jerusalem;<sup>4</sup> but, having regard to the ancient significance of the title "Master of the Temple"—the Master in the time of the Templars being always a layman and a soldier—it seems singularly inappropriate when applied to the clergyman who was merely Rector of the church, and calculated to suggest an authority with which he was not invested. It is, therefore, not surprising that when an ambitious and determined ecclesiastic was appointed to the place, this description of his office led to claims being advanced which brought him into conflict with the Benchers of the Inns.

The Rev. Thomas Masters, who had presided over the church services since the year 1601, died in the spring of 1628, and was succeeded by Dr. Paul Micklethwaite, whose preaching in the subordinate office of lecturer had gained for him the good opinion of the two Societies.<sup>5</sup> He is said to have received his appointment as Master at the request of the Inns, and that he was a *persona grata* to their members is evident from a new year's gift of £20 made to him by each Society in the first year of his Mastership. Moreover, the Middle Temple Benchers passed a resolution that he should have and receive out of the Treasury of their House the full value of the rents in the church-

<sup>1</sup> B. 274.

<sup>2</sup> See Mr. C. E. A. Bedwell's *Brief History of the Middle Temple*, 86.

<sup>3</sup> "Magister sive custos domus et ecclesiæ nostræ Novi Templi London," are the words of the grant.

<sup>4</sup> See form of appointment quoted in Petyt MSS. No. 538.

<sup>5</sup> Appointed Lecturer, January 28th, 1626: A.P. II, 161.

yard, whether collected or not collected, any former order to the contrarie notwithstanding.”<sup>1</sup> Unfortunately, the pleasant relations which these tokens of good will indicate were soon disturbed, for Dr. Micklethwaite, founding his claim on the letters patent of King James, proceeded to put forward pretensions of a very high order. Indeed, he seems to have claimed to be recognized as Master not only of the Temple, but also of the legal Societies within it; asserting a right to dine in their halls when he pleased, and take precedence there of all others at the Bench table. These claims, which were without precedent, were naturally resisted by the Benchers of both Inns. The Doctor, however, discharged his clerical duties with energy and zeal, and in recognition of this, the Bench of the Middle Temple, while denying his claim of right, treated him at first with all civility; as appears by the following resolution adopted at a parliament held on October 16th, 1629:

“Whereas it was at this parliament propounded on behalfe of Mr. Doctor Micklethwaite, Master of the Newe Temple, that he, when he happened to come to dinner or supper in the hall of this Society, might in terme times have place in a chayre at the upper ende of the Benche table; for so much as upon debate of that matter at large and consideration had of divers letters patent and records concerning his office of Mastershippe of the Newe Temple, it appeareth most plainly that he neither hath nor ought to challenge or claime anye place in the Middle Temple hall, nor right to any manner of meate or drinke or diett whatsoever in the Middle Temple, neverthelesse the Masters of the Benche considering the worthe of the said Dr. Micklethwaite, but more especially the greate and extraordinary paines by him taken in his place in often preaching, are well pleased that he and onely he, and that also onely soe long as to them shall seeme meete, shall by way of curtesie onely and guestwise, as he shall in the terme times happen to be invited, have a place in a chayre at the upper ende of the Benche table, yet declaring that such curtesie to him shall not for anye other succeeding Master of the Newe Temple be drawn into a binding precedent as a thing rightfully belonging to the Master of the same for anye time hereafter being.”<sup>2</sup>

<sup>1</sup> B. 25; see also (I.T.) Gen. Acct. Bk. I, 190.

<sup>2</sup> B. 35.

How little this concession was calculated to satisfy the ambitious Doctor may be judged from an incident which occurred at the Inner Temple a few days later. This year the Benchers of that Society had invited the Lord Keeper and the other Judges to dine in their hall on the Feast of All Saints, and opposite the seat of honour reserved for his Lordship was placed upon the table, according to custom, a gold embroidered purse. This the reverend gentleman, who claimed the highest place as his right, proceeded to remove, and slipping himself into the Lord Keeper's seat, stoutly maintained his right to it. The scandal occasioned by such action in a House punctilious of etiquette may well be imagined, and it is not surprising to find that he received prompt notice to forbear the Hall of the Inner Temple in future until he was sent for.<sup>1</sup>

The practice of subscribing to the Parson's Roll to supplement the Master's stipend has been already noticed. The rents of certain chambers and premises in the vicinity of the church, some of which represented quarters formerly occupied by the officiating clergy, had likewise been treated as his perquisite. These payments, however, were regarded by the Inns as matters of grace and bounty only, and when the pugnacious Doctor claimed them as his right, and further contended that he was entitled to receive not only these rents, but also such others as accrued from premises in the churchyard and chambers over the cloisters, and on other land at one time connected with the church, the Benchers to confute his claim, stopped the roll and rent payments hitherto made to him. On this he appealed to Cæsar by laying a petition before the King in which he artfully alleged that through these differences

“Your humble servant and peticoner hath suffered in all thinges that are precious to a man, his time, his name, his meanes of subsistence &c., but most especially Gods possessions and Your Majestie's royall right and a place so antient and so eminent (which in conscience and duty to God and your Majestie he is bound to maintayne to his power) are in greate hazard.”<sup>2</sup>

The King referred this petition to his Council, who, having heard the petitioner, arrived at a decision which can hardly have been to his liking. As entered in the Middle Temple Minute Book under the date July 5th, 1631, it reads as follows :

<sup>1</sup> I.T.R. II, lxxxiii.

<sup>2</sup> B. (end) 10.



“The opinion of the Kinge’s Councell touching the right of clayme made by Mr. Doctor Micklethwaite—We having had severall Conferences with Mr. Doctor Micklethwaite the Master of the Temple concerning severall rights claymed by him as due to his place, and having heard all that himself or that his counsell could informe us of therein, We are of opinion that on behalfe of his Majestie or Doctor Micklethwaite we shall not be able to mayntayne by lawe that the churchyarde the cloyster, and buildings over the cloyster, the Court Commonly called the Parson’s Court and buildings there, which are the thinges principally demanded by him, doe *de jure* belonge unto him for the patent of 6<sup>th</sup> Jac. grants all the whole soyle of these thinges to Sir Julius Ceasar and the other patentees named for both the Societies and by covenant reserves a convenient mansion for the Master to be mayntayned at the charge of the Societies. Therefore we all agreed in this opinion to be humble suitors not to be pressed as the Councell of the Kinge to urge those thinges for Doctor Micklethwaite before anye referees or others which are against the Lawe and our opinion for anything yet appearing unto us.”<sup>1</sup>

The importunate Doctor, however, continued to press his claim, and from the Court at Whitehall the following missive was despatched to the Benchers on February 5th, 1632, by Mr. Secretary Windebank, himself a member of the Middle Temple Society :<sup>2</sup>

“To the right worshipful my very loving friends the Benchers of both Societies of the Temple.

“After my very hartie commendations Whereas his Majestie hath lately received a peticon from Paul Micklethwaite doctor in Divinitie, Master of the Temple, and one of his Majestie’s chaplaynes in ordinary, wherein it is humblye remonstrated to his Majestie that the differences concerning the worshipp of the Temple have continued these many yeares by reason whereof

<sup>1</sup> B. (end) 4.

<sup>2</sup> Admitted February 4th, 1602 : D. 319. Sir Francis Windebank was an intimate friend of Laud. He later incurred the suspicion of the popular leaders, and in 1640 fled to France, where he was received into the Romish Church, and died in 1646 : see Whitelocke’s Mem. 39 ; also D.N.B. LXII, 162–166.

the Petitioner hath beene deprived of the meanes of his subsistence and that the said office of Master of the Temple and the Rectorie of the church thereto belonging, being both granted to him in one patent from his Majestie, are now questioned and the profits thereof denied and deteyned from him. His Majestie having taken this into his Princely consideracon which soe neerely concerns his owne right and patronage of donacon and the prejudice the Petitioner his servant receives thereby, hath commanded me to signifie his pleasure to you the Benchers of both Societies of the Temples, that forthwith you advise together and sett downe the grounds and reasons why you call the said Rectorie into question and deteyne the profits thereunto belonging from his said servant, and that you make present report unto his Majestie under your hands of the true state of this business, that so before the ende of this terme such course maye be taken for the settling of his Majestie's right and the composing of these differences, as his Majestie in his Princely wisdom, shall think fitt ; And soe I bid you right heartily farewell and rest

“ Your very loving frende

“ FRANCIS WINDEBANKE.” <sup>1</sup>

To this communication on February 14th, 1632, the Benchers replied as follows :

“ To the right honor<sup>ble</sup> Sir Francis Windebanke one of his Majestie's Principall Secretaries of State at Court.

“ May it please your honor :

“ According to his Majestie's pleasure signified unto us by your letters of the 5<sup>th</sup> of this instant February we humblye certifie that we have not, nor doe, question any the rights belonging to the Petitioner nor have denied him any profits due unto him but have beene and shalbe ever readie to pay and allowe unto him all sumes of money and other profits appertayning to his place And humbly rest

“ Your honor's to comaund ” <sup>2</sup>

<sup>1</sup> B. (end) 8,

<sup>2</sup> B. (end) 9,

This reply was signed by the following sixteen Masters of the Bench (eight for either Inn) : Sir Laurence Hyde, Sir John Strode, Thomas Greene, Robert Tanfielde, Robert Thorpe, Henry Clerke, Richard Parker, and Richard Lane,<sup>1</sup> for the Middle Temple ; and Edward Littleton,<sup>2</sup> Nicholas Cholmley, Timothy Levinge, John Fairwell, Edward Trotman, Thomas Chapman, John Wylde, and William Babington, for the Inner Temple.

On the issue thus joined the King again had recourse to his Council, and appointed on March 12th a Committee consisting of the two Archbishops, the Lord Treasurer, the Earl Marshal, the Earl of Dorset, and Lord Cottington, or any three of them, who taking to their assistance Sir Thomas Richardson, Chief Justice of the King's Bench, and Sir Henry Martin, Judge of the Court of Admiralty, were directed to call before them the petitioner, and such of both Houses of the Temple as they should think fit, and after hearing both sides, set down such final order for settling the difference as should be agreeable to equity and justice, or otherwise to certify his Majesty where the defect lay that he might take such further order therein as he should think fit.<sup>3</sup>

Though no account of any proceedings before this Committee appears in the Middle Temple Minute Book, from which these particulars are derived, it is manifest that the respective parties were summoned and heard before any decision was taken, for under the date June 15th, 1632, the following order appears in the Records of that Inn with reference to the hearing. Attorney Noy, who is mentioned in it, had laboured, unfortunately without success, to bring Dr. Micklethwaite to reason : <sup>4</sup>

“ It is ordered that the standing guilt cup with a cover provided for Mr. Noye and by him refused, be presented in the name of the Treasuror and Masters of the Benche of the Middle Temple to Mr. Glanville, as their thankfull acknowledgment of his paines and care in attending at the Councell Table on the behalfe of the house in the busines of Doctor Micklethwaite the Master of the Temple.” <sup>5</sup>

<sup>1</sup> Later Lord Keeper (1645).

<sup>2</sup> At this time Recorder of London : later S.G. and Lord Keeper.

<sup>3</sup> B. (end) 10, 11.

<sup>4</sup> “ *Tanquam elatus et superbus* ” was Noy's description of the Doctor : see Addison's Temple Church (1843), 36.

<sup>5</sup> B. 95.

On the major points the decision of the Council, as was inevitable, went against the Doctor, but the Benchers had gone too far in stopping all contributions on the Parsons' Roll, and withholding all the rents. The final decision of the Council reads as follows :

“ At the Starr Chamber the 16th day of May 1634.

“ Present

Lo. Archbishop of Cant.	Ea. Marshall
Lo. Archbishop of York.	Ea. of Dorset
Lo. Cottington	

“ Whereas an humble peticon hath heretofore been preferred to his Majestie by Paul Micklethwaite Doctor in Divinitie his Majestie's Chaplaine and Master of the Temple touching some differences concerning the Mastershipp of that place the consideracon whereof it pleased his Majestie to refer to the Lo. Archbishop of Cant., his Grace ; Lo. Archbishop of York, his Grace ; Lo. Treasurer ; Earl Marshall ; Ea. of Dorset and the Lo. Cottington—Their Lordshipps haveing taken paines therein and maturely weighed the merittes of the cause have ordered that the articles hereafter following agreed uppon by the consent of both parties should be entered in the Register of Councell causes for the fynall ending of all differences in point of profitt betweene the parties :

1. “ First that the Rolls of 18<sup>d</sup> per annum of everie gentleman in either Societie should be paid to the Master of the Temple and his successors to the full value according to the Rolls to be shewed to the said Master when he shall require it :

2. “ Secondly the present rents and future improvements of the chambers whereof the precedent Masters of the Temple have had the possecon or rents to be collected by the officers of either Society (if the said Societies severally please) and to be by the said officers paid on to the Master of the Temple for the time being, provided alwayes that the said Societies respectively (if they severally please) shall have the disposing of the said chambers and government of them that shalbe placed therein :

3. “ Thirdly that the Master for the Mansion which by his late Majestie's Patents the Societies are to provide for him



shall have the lodging heretofore allowed to Mr. Masters and shall likewise have the Lecturer's lodgings lately built upon the church by Mr. Crashawe untill for the beautifying or more convenient repayre of the church it shalbe thought fitt to be taken downe with the rest of the chambers which deface the beautie of the church and put out the lights thereof :

4. "Fourthly the offerings at everye communion, the bread and wine being discharged should be the Masters :

5. "Fiftly the rates of the burialls should continue as they were valued by his imediate Predecessors and continued by the present Master :

6. "Sixtly that the Master of the Temple in officiating in church and preaching should perform that dutie either by himselfe or by another which the canons of the Church of England and his Patent require :

7. "Lastly that all arearages being behinde and unpaid during the time of these differences should be paid.

"Signed W. TRUMBULL." <sup>1</sup>

Dr. Micklethwaite seems to have complained again to the Council, alleging that the Masters of the Bench, in contempt of their Lordships' adjudication, were not giving effect to the above articles, for on November 24th, 1635, the following further communication was addressed to them :

"Charles R.

"To our Trustie and welbeloved the

"Benchers of both houses of the

"Temple

"Trustie and Welbeloved we greete you well Whereas upon peticon exhibited unto us by our servant Dr. Micklethwaite Master of the Temple concerning some differences betweene him and both the houses of the Temple We were pleased to refer the hearing and determining of those differences to certaine Lords of our Privie Councell who settled a finall end with the consent of both sides by which among other things it was ordered and agreed that all arearages behind and unpaid during the time of these differences should be satisfied to our said

<sup>1</sup> B. (end) 13.

servant Notwithstanding which order we understand that the said arearages are yet deteyned from him to his great prejudice We doe now therefore will and command that all those sumes of monie which are due him from both houses to this present time as well those of the Mastership as those which are due upon agreement for his paines of preaching on Sundayes in the afternoone and deteyned solely upon the occasion of these differences be forthwith paid unto him proporconable to the payment formerly made him And for the future We expect that he enjoy both the rights of his Mastership and those other payments agreed upon at his entrance into that place without farther trouble, he continuing his paines as he hath formerly done.

“Given under our signett at our Pallace of Westminster the foure and twentieth day of November in the eleventh yeare of our reigne.”<sup>1</sup>

If the due payments had not in fact been made this royal missive seems to have proved decisive, as appears from the following reply :

“To the Kinges most excellent Majestie  
 “The humble peticon of the Societies  
 “of the twoe Temples

“Humblye shewing that whereas your Majestie hath beene graciously pleased by your Letters of the 24<sup>th</sup> of November last to take notice of the late differences betweene the Master of the Temple and the Peticoners and of the finall end made thereof by Lords to whom your Majestie was pleased to referr the same and upon informacon that the Peticoners had not performed the said orders did command that all sumes of monie due and now [in] arear to the Master in right of his Mastership or by agreement for his afternoone sermons on Sundayes should be payed

“The Peticoners humbly beseech your Majestie to be informed that all the demands made by the Master concerning matters of profitt either in right of his Mastership or his sermons

<sup>1</sup> B. (end) 14.

upon Sundayes in the afternoone were upon your Majestie's reference to the said Lords referred, claymed by the Master, debated by their Lordships and a finall order made thereupon, which for so much thereof as concerneth the Peticoners they have performed in everie particular as there is now nothing in areare to him.

"All which the peticoners humbly offer to your Majestie's gracious consideracon."<sup>1</sup>

Although the extravagant pretensions of Dr. Micklethwaite are quite sufficient to account for the hostility of the Inns towards him, the strained relations were no doubt further aggravated by his reforming zeal in the matter of the Church and its services. He undoubtedly regarded his office as one of eminence, and the Temple Church as in the nature of a Chapel Royal, the services in which ought to conform to the practice of the King's Chapel at Whitehall. In this he had the support of King Charles himself, and of Archbishop Laud, while the Benchers seem rather to have favoured the Puritan laxity of behaviour in church,<sup>2</sup> and the use of consecrated buildings for secular purposes. Here modern opinion will probably side with the Doctor in so far as he sought to introduce a more reverent formality into the celebration of the services and even when he locked the door of the church against the Benchers to prevent its being used as a place of meeting for committees and other non-ecclesiastical purposes.<sup>3</sup>

His innovations, which included the removal of the Communion Table from the centre to the east end of the choir, and a change in the position of the pulpit, involved some expense, and on October 27th, 1637, a Middle Temple parliament is found considering "five severall bills of charges" for this work, which amounted in all to £90 9s. 11d., and had been

<sup>1</sup> B. (end) 14.

<sup>2</sup> Of this laxity the following passage from Mr. Douglas Walker's *Lecture on Lincoln's Inn* (Inns of Court and Chancery (1912), p. 172) affords a striking illustration: "In 1623 the new chapel was opened with great ceremony, and the Bench, in view of the occasion, enacted that no gentlemen in the time of divine service should sit, lean, or rest with their hands or arms against the Communion Table, or lay their hats or books upon the same. It seems at this period manners in church were to our ideas incredibly indecorous. There is somewhere a story of a woman having laid her baby on the table as a convenient receptacle." As to the wearing of hats in church, see *Notes and Queries*, Series VI, I, 519; II, 57, 314.

<sup>3</sup> As to its use earlier by House of Commons Committees, see *ante*, p. 202.

“delivered in by Dr. Micklethwaite Master of the Temple to be paid betweene the Houses.”<sup>1</sup> The changes had been carried out by royal authority, to make the church conform to the Chapel Royal at Whitehall,<sup>2</sup> but the Benchers, who seem to have been ignored in the matter, resented what had been done. The result of their deliberations on the Doctor’s bills is accordingly entered as follows :

“For as much as it was a charge made by the Doctor by his owne appointment without the assent and direcon of the house it is therefore thought fitt and so concluded and ordered by the Masters of the Bench, that no payment be made by this house of anye parte of either of the said bills And further that an addresse be made to the Lord Keeper<sup>3</sup> in behalfe of this house to informe him, as visitor of this church, of the Doctor’s proceedings and behavior therein in locking up the church dore, and to pray his Lordship’s favor for reliefe against him in such courses, being most prejudiciall in their consequences ; And it is also directed that Master Townesend, Master Pepys, and Master Hatton, Committees appointed to confer with the Inner Temple, acquaint them with the resolution of their Masterships herein and propose unto them to joyne with this house in the said addresse to the Lord Keeper, this Churches Visitor.”<sup>4</sup>

What came of the proposed address, if it was ever delivered, does not appear, but it is curious to contrast the stubbornness of the Benchers with regard to these alterations, which the King, under whose jurisdiction the Temple Church as a royal peculiar undoubtedly was, had expressly ordered, with their meek submissiveness, a few years later, under the dictation of the House of Commons.<sup>5</sup>

In the following year Dr. Micklethwaite again appealed to the King, and on this occasion an order was issued recognizing

<sup>1</sup> B. 180.

<sup>2</sup> The following direction in writing was produced by the Master to the Treasurer: “5 May 1637: His Majestie doth declare and command that the Communion Table, Pulpit and Reading place be ordered and placed as decently as in his owne royall chapell”: B. (end) 15.

<sup>3</sup> Lord Coventry, former Treasurer of the Inner Temple.

<sup>4</sup> B. 180.

<sup>5</sup> See *post*, pp. 413 *et seq.*



his right to the rents of certain chambers, and giving general directions as to his emoluments, which is here inserted from the State Papers Domestic of the Reign : <sup>1</sup>

“ The said Master has twenty chambers in Parson’s Court and in the churchyard which his predecessors have let at their pleasure and which in value one with another are worth £4 a chamber but by building may be much improved in value. He has also for the rolls 18<sup>d</sup> per annum of every gentleman in both Houses, of the Inner House but £14 10/- of the Middle £17, in all £31 10/-, which is all that he has of the Houses for his ministry.

“ It is ordered that he deliver up his chambers to the two Houses receiving for those and for his tithes and oblations £200 in equal proportions, every term provided that those monies which have been lately detained be paid and that when they build Parson’s Court they make him a convenient lodging. He is to preach every Sunday so long as he shall reside ; the Temple shall allow him diet for two men ; he shall also have the rolls of the gentlemen brought to him every term that he may know who do not communicate that either by private monition they may be reformed or that the orders of the Houses may pass upon them. He is to be present at all meetings about repairing the church and all his rights of office are to be preserved entire.”

The mention of tithes shews that some claim was advanced to these by the Doctor, founded no doubt on the loose language of his patent of appointment.<sup>2</sup> Whatever form this claim took it had no historical foundation, for the New Temple, as the property of a religious Order, had always been exempt from ordinary ecclesiastical jurisdiction, was no part of any parish, and wholly immune from tithes. Nor had the seizure of the Temple by the Crown affected this immunity, though the legislation of Henry VIII, by substituting the King for the

<sup>1</sup> Vol. CCCCVI, No. 56 ; see Cal. (1638) 206.

<sup>2</sup> The form set out in the Petyt MS. includes the words “ concedimus . . . omnes decimas, oblacones, obvencones et alia proficua ecclesiæ.” Mr. Inderwick in his interesting Introduction to Vol. II of I.T.R. says the Doctor claimed a tenth of all the lawyers’ fees, which certainly seems sufficiently audacious : p. xciii.

Pope, as head of the Church in England, no doubt brought the Temple in matters ecclesiastical directly under royal control.

An end was put to these unfortunate disputes, however, when Dr. Micklethwaite died on August 7th, 1639, and Dr. John Littleton, born of a family famous in the annals of the Inner House, was appointed five days later to succeed him.<sup>1</sup>

Many Masques were performed during this reign, in which gentlemen of the Inns of Court took part. One of these has already been mentioned in connection with the entertainment of the young Prince Elector Palatine at the Middle Temple in 1635. As already indicated, such doings are generally ignored in the official Minutes of the Societies, and for any detailed information regarding them it is necessary to look elsewhere. To one such Masque, however, there are references in the Records of all the Houses of Court, and as it far exceeded every other in splendour and costliness, some account of it must now be given. This was the great Masque called "The Triumph of Peace," performed at Whitehall by gentlemen of the four Inns during the month of February, 1633. Bulstrode Whitelocke, one of the chief organizers of this entertainment, has described it with much elaboration in his Memorials, from which the particulars following are mainly derived.<sup>2</sup>

In December, 1633, appeared "Histrio Mastix, the Players Scourge or Actor's Tragedie," a book written by William Prynne, "an Utter barrester of Lincolnes Inn," designed to prove "that popular stage playes (the very Pompes of the Divell which we renounce in Baptisme if wee beleewe the Fathers) are sinful, heathenish, lewde, ungodly spectacles condemned by the wisest men of ancient and modern times." This work appeared to reflect upon King Charles and his Queen, both of whom took much delight in theatrical entertainments, and this, says Whitelocke, caused certain principal members of the Inns of Court, who were in the royal service, to conclude that a Masque in which all the Societies joined as an expression of their love and duty to their Majesties, would be specially welcome at this time as a seasonable protest against the extreme opinions set forth in Prynne's book. The feelings aroused by this publication no doubt greatly added to the zest with which the Masque was planned and performed, but that it had a different origin from that which Whitelocke suggests, appears from an order in the Middle Temple

<sup>1</sup> I.T.R. II, p. xcv.

<sup>2</sup> Memorials, 19-21.

Minute Book, dated October 25th, 1633, which imposed a special taxation upon members (£3 every Bencher, 40s. every Barrister, and 20s. other gentlemen) towards a sum of £600 agreed to be contributed by each of the several Houses of Court for the joint presentation of a Masque "before the Kinges Majestie at Cort in joyfull acknowledgment of the happie birth of his second sonne the Duke of York."<sup>1</sup> The Masque is also noticed in a Minute of the Inner Temple three weeks later, on November 12th, when a special taxation for it was also adopted in that Society, and on a somewhat more luxurious scale, viz. £5 for every Bencher, 50s. for Barristers of seven years' standing and over, 40s. for other Barristers, and 20s. for gentlemen under the Bar, besides special contributions to be paid by eleven members of the Inn who were holders of public offices in connection with the Courts.<sup>2</sup>

The design of the Masque, says Whitelocke,

"took well with all the Inns of Court, especially the younger sort of them, and to put it in execution the Benchers of each house met and agreed to have this solemnity performed in the noblest and most stately manner that could be invented."

To this end, he says, a Committee was appointed, consisting of two members from each Inn, and the importance attached to the event is shown by the eminence of the persons named by Whitelocke as representing the different Societies; of whom one was the Attorney-General of the day, and four of the others, gentlemen who subsequently held the Great Seal. For the Middle Temple there served on this Committee Whitelocke himself (later a Commissioner of the Great Seal under the Commonwealth)

<sup>1</sup> B. 116, 117.

<sup>2</sup> A.P. II, 211. The record regarding these officers is as follows: "And such as are hereafter named who have or keepe the severall offices hereafter menconed within this howse shall paye (over and besides the sumes aforesaid) for and in respect of theire said severall offices the severall sumes following That is to saye Richard Brownlowe Esq for his office of cheife Prothonotary of the Comon pleas sixe poundes; Robert Henly and Samuell Wightwick Esq<sup>r</sup> for the King's Bench Office ten poundes; Thomas Fanshawe Esq for the Crowne Office six poundes thirteene shillings and fower pence; Mr. Hugh Audley for the Office of Wards and Liveries ten poundes; Mr. W<sup>m</sup> Blage for his office of cyrographer ten poundes; Mr. Will<sup>m</sup> Rolfe for his office of Clark of the Warrants six poundes thirteene shillings and fower pence; Mr. Richard Barrington for his office of Philozer three pounds six shillings and eight pence; Mr. Mathew Cradock for his office of Clark of Assizes fortie shillings; Mr. Francis Williamson for his office of Clark of Assizes fortie shillings; Mr. Humphrey Streete for his office of Auditor three pounds six shillings and eight pence."

and Edward Hyde (afterwards Lord Chancellor Clarendon); for the Inner Temple, Edward Herbert (subsequently Solicitor and Attorney-General to Charles I and titular Lord Keeper to Charles II) and the learned John Selden; for Lincoln's Inn, Attorney-General Noy and Mr. Gerling; and for Gray's Inn, Sir John Finch (about to be raised to the Bench as Chief Justice of the Common Pleas and later Lord Keeper) and another member of that Society whose name is not known.<sup>1</sup>

By this principal Committee, sub-committees were appointed to manage (*i.a.*) the poetical part of the business, the several properties of the Masquers, Anti-Masquers, and other actors, the Music and the dancing. The Music was Whitelocke's special charge, and so performed, he says, that it excelled any that ever before that time had been heard in England. It was written for the occasion by two noted musicians of the time, Simon Ives, lay vicar of St. Paul's Cathedral, and William Laws, called by King Charles the "Father of Musick," and "respected and beloved," says Fuller, "by all persons who cast any looks towards vertue and honour."<sup>2</sup> The services of French, Italian, and German musicians were also secured, and at the rehearsals there were sometimes forty lutes, "besides other instruments and voices."<sup>3</sup>

The words of the Masque were composed by James Shirley,

<sup>1</sup> The names given by Whitelocke are not confirmed by the Records of Gray's Inn and Lincoln's Inn. Those Records give Whitfield, Brereton, and Davison for Gray's Inn (Pension Bk. I, 317), and Hackwell, Herne, and Stile for Lincoln's Inn (Black Bks. II, 312). Probably Whitelocke in the names he gives is referring to some committee having supreme control, not mentioned in the books. He only gives two representatives to each house. The conspicuous part he himself played in organizing the Masque makes it clear he must have known the shares taken in its preparation by the persons he names. As regards Noy, A.G., he is confirmed by Mr. Gerrard's letter of December 6th, 1633, to the Lord Deputy Wentworth, "No man so forward to further this action" (the Masque then in prospect) "as Mr. Noy": Strafford Letters, I, 167.

<sup>2</sup> Laws fell at the siege of Chester fighting for the King, who ordered a special mourning for him (see Fuller's *Worthies* (Edit. 1662), 157). For some account of Simon Ives and William Laws, see D.N.B. XXIX, 78, and XXXII, 242.

<sup>3</sup> Whitelocke has left a curious account of how some of these performers were rewarded. "I gave Mr. Ives and Mr. Laws £100 a piece for their rewards; for the four French gentlemen the Queen's servants I thought that a handsome and liberall gratifying of them would be known to the Queen their Mistress and well taken by her. I therefore invited them one morning to a collation at St. Dunstan's Taverne in the great room the Oracle of Apollo where each of them had his plate laid for him covered and the napkin by it and when they opened their plates they found in each of them forty pieces of gould of their Master's coyne for the first dish, and they had cause to be much pleased with this surprisall": see Shirley's *Works* (Giffard) (Life by Dyce), I, p. xxviii, note.



the last writer, as Lamb has pointed out, who can claim to belong to that great race whose genius adorned the golden age of English drama.<sup>1</sup>

The performance was timed for Candlemas night at Whitehall in the Banqueting House, the gallery of which, by the King's command, was exclusively reserved for the gentlemen of the four Inns to view the entertainment. Sixteen grand Masquers were the chief performers, four from each Society, "most suitable for their persons, dancing and garb for that business."<sup>2</sup> It was arranged that these should be drawn in four rich chariots ;

"but there grew a difference about the order of their going, which of the Inns of Court should have the first chariot, so of the rest in their order ; and how the several grand Masquers should sit in the several chariots, who in the chiefest place and who in the second, third, and last place. To satisfy this it was propounded and assented to by the Committee that the chariots should be made after the fashion of the Roman triumphant chariots and being of an oval form in the seats there would be no difference of place in them. For the several colours and for the precedence of the chariots it was agreed that one of each House of the Committee should throw the dice and as that happened the Society to be bound of which he that threw was a member."

On the afternoon of the appointed day, as in the case of the Masque given twenty years before by the Inner Temple and Gray's Inn, the performers assembled at Ely House in Holborn, where the grand Committee had been sitting all day superintending the final arrangements. As the winter day closed and evening drew on, the procession set out down Chancery Lane on its way towards Whitehall. First marched twenty footmen dressed in scarlet liveries adorned with silver lace, each having his sword by his side and carrying in one hand a baton and in the other a lighted torch. These were the Marshal's men, who cleared the streets and made way for the

<sup>1</sup> Eng. Dramatic Poets (Bohn Edit. 1854), 387. The words were published in 1633 with a dedication to the Inns of Court : see Shirley's Works, VI, 255.

<sup>2</sup> The names of the Masquers are given in a quarto tract by Francis Lenton (1634) : for the Inner Temple, Edmund Carew, Arthur Baker, John Farewell, and Reginald Foster ; for the Middle Temple, Robert Owen, Philip Morgan, Martyn Harvey, and Robert Coale : Shirley's Works, I, pp. xxiv, xxv.

rest. After them, and sometimes moving into their midst, came the Marshal, Mr. Darrel, afterwards knighted by the King.

"He was of Lincoln's Inn," says Whitelocke, "an extraordinary handsome proper gentleman. He was mounted upon one of the King's best horses and richest saddles, and his own habit was exceeding rich and glorious; his horsemanship very gallant and besides his Marshal's men he had two lacqueys who carried torches by him and a page in livery that went before him carrying his cloak."

After the Marshal, but preceded by trumpeters who sounded before them, came one hundred gentlemen of the Inns of Court (riding two and two abreast), five and twenty chosen out of each House,

"of the most proper and handsome young gentlemen of the Societies, every one of them gallantly mounted on the best horses and with the best furniture that the King's stable and the stables of all the noblemen in town would afford; and they were forward on this occasion to lend them to the Inns of Court."

Richly dressed in costumes adorned with gold and silver lace, which shone resplendently in the light of the torches, they must have formed a gallant troop, and when the charms of youth and good looks, the gay liveries of the attendant servants, and the motion and stirring of the mettled steeds are taken into account, it is not surprising that Whitelocke exclaims, "They made the most glorious and splendid show that ever was beheld in England."

After this cavalcade came by way of contrast the first Anti-Masquers. They also were preceded by music, but of a different sort, made from keys and tongs "snapping and yet playing in a consort before them." For this Anti-Masque consisted of cripples and beggars on horseback, their mounts being the poorest and leanest jades that could be collected out of the dust carts. The habits and properties of these cripples and beggars, says Whitelocke, were most ingeniously fitted, because "those great and eminent persons," Mr. Attorney Noy, Sir John Finch, Sir Edward Herbert, and Mr. Selden, had taken extraordinary care and pains in the ordering of this, as in the whole business.

After the Beggars' Anti-Masque came men on horseback playing on pipes, whistles, and other instruments, in imitation of the notes of birds, heralding the second Anti-Masque, that of the Birds—an owl in an ivy bush, with other birds—a magpie, a crow, a jay, and a kite—clustered round and gazing upon her. Here the performers were little boys seated on small horses, and “fitted in covers” representing the bird shapes. Footmen went by them with torches to light this part of the procession, “and here were some besides,” adds Whitelocke, “to look unto the children and this was very pleasant unto the beholders.”

Next came a third Anti-Masque, that of the Projectors, also heralded by mounted musicians. But this time the music was from bagpipes, hornpipes, and the like, “speaking the following Anti-Masque of Projectors to be of the Scotch or Northern quarters and these as all the rest had many footmen with torches waiting upon them.”

This part of the procession was cleverly designed as a satire upon the abuses of the late reign connected with patents for monopolies, which had resulted in the Statute 21 James I, c. 3, still the foundation of English Patent Law. First of these, continues Whitelocke,

“rode a fellow upon a little horse with a great bit in his mouth and upon the man's head was a bit with head stall and reins fastened and signified a projector who begged a patent that none might ride their horses but with such bits as they should buy of him. Then came another fellow with a bunch of carrots upon his head and a capon upon his fist, describing a projector who begged a patent of monopoly as the first inventor of the art to feed capons fat with carrots and that none but himself might make use of that invention and have the privilege for fourteen years according to the Statute.”

Other projectors followed, and he adds this Anti-Masque

“pleased the spectators the more because by it an information was covertly given to the King of the unfitness and ridiculousness of these projects against the Law; and the Attorney Noy who had the most knowledge of them had a great hand in this Anti-Masque of the Projectors.”

After this and other Anti-Masques came the chief musicians, some on horseback and some in chariots, habited as heathen Priests and Divinities, whose music proclaimed the approach of the Grand Masquers in chariots drawn by four horses abreast after the manner of a Roman triumph, "most curiously framed and carved and painted with most exquisite art and purposely for this service and occasion."

The lot had given the place of honour to the gentlemen of Gray's Inn, whose chariot therefore came first. It was richly painted even to the wheels in crimson and silver, which the coachman's livery matched; while the horses which drew it were draped to the heels in cloth of tissue of the same colours.

"In this chariot," says Whitelocke, "sat the four grand Masquers of Gray's Inn, their habits doublets trunk hose and caps of most rich cloth of tissue and wrought as thick with silver spangles as they could be placed, large white silk stockings up to their trunk hose and rich sprigs in their caps, themselves proper and beautiful young gentlemen.

"On each side of the chariot were four footmen in liveries of the colours of the chariot carrying huge flamboys in their hands which with the torches gave such a lustre to the paintings, spangles, and habits, that hardly anything could be invented to appear more glorious."

Next, heralded by more musicians, habited like the former ones, came the second chariot of Grand Masquers, the lot of which had fallen to the Middle Temple. It differed from the first in colours only, being painted in light blue and silver. The Masquers here were dressed like those of Gray's Inn, and had the like attendance. Again preceded in each case by more musicians, the Grand Masquers of the Inner Temple and Lincoln's Inn followed arrayed like the others, their chariots only being differenced by their peculiar colours, which Whitelocke does not specify.<sup>1</sup> Thus the sixteen Grand Masquers were all in the same splendid costumes,

<sup>1</sup> From Shirley's account, however, the remaining colour combinations seem to have been orange and silver, and white and silver; but he assigns orange to the first chariot, light blue to the second, crimson to the third, and white to the fourth (see Works, VI, 261). So whether the Inner Temple colours were crimson or orange remains in doubt.



“ their persons most handsome and lovely, the equipage so full of state and height of gallantry that it never was outdone by any representation mentioned in our former stories.

“ The torches and huge flamboys borne by the sides of each chariot made it seem lightsome as at noon day, but more glittering and gave a full and clear light to all the streets and windows, as they passed by. The March was slow in regard of their great numbers, but more interrupted by the multitude of the spectators in the streets besides the windows, and they all seemed loath to part with so glorious a spectacle.”

The company who awaited the Masquers at Whitehall are next described.

“ In the meantime the Banqueting House at Whitehall was so crowded with fair ladies glittering with their rich clothes and richer jewels, and with Lords and gentlemen of great quality, that there was scarce room for the King and Queen to enter in. The King and Queen stood at a window looking straight forward into the street to see the Masque come by and being delighted with the noble bravery of it they sent to the Marshal to desire that the whole show might fetch a turn about the tilt yard that their Majesties might have a double view of them ; which was done accordingly and then they all alighted at Whitehall Gate and were conducted to several rooms and places prepared for them.

“ The King and Queen and all their noble train being come in, the Masque began and was incomparably performed in the dancing speeches music and scenes . . . none failed in their parts and the scenes were most curious and costly. The Queen did the honour to some of the Masquers to dance with them herself and to judge them as good dancers as ever she saw ; and the great ladies were very free and civil in dancing with all the Masquers as they were taken out by them. Thus they continued in their sports until it was almost morning and then the King and Queen retiring to their chamber the Masquers and Inns of Court gentlemen were brought to a stately banquet and after that was dispersed every one departed to their own quarters.” <sup>1</sup>

<sup>1</sup> Memorials, 21.

The Queen was so pleased with this entertainment that she expressed a wish to have it repeated, which was duly gratified by the Lord Mayor (Master Ralph Freeman), who gallantly invited their Majesties to the City, where, after a second procession through streets packed with delighted crowds, the Masque was again performed in the Merchant Taylor's Hall to his Lordship's great honour "and no less charge."

There are references in the Records of all the Inns to the levies on members which were made to meet the expenses of this Masque. The original estimate had been £600 from each House,<sup>1</sup> but it soon became apparent that contributions on this scale would fall far short of what was required, and in the end the actual disbursements much exceeded £1200 from each Society. The music alone cost about £1000, and in addition to what the Inns paid, great cost was incurred by individual members in their personal equipment.

"The clothes of the horesmen and the liveries of their pages and lacquies which were at their own particular charge were reckoned," says Whitelocke, "one with another at £100 a suit at the least; and 100 of those suits to amount to £10,000. The charges of all the rest of the Masque and matters belonging to it were reckoned at as much more, and so the charge of the whole Masque which was born by the Societies and by the particular members was accounted to be above one and twenty thousand pounds."

Subsequently a deputation, of whom Whitelocke was one, waited upon the King and Queen at Whitehall to convey the humble thanks of the four Societies to their Majesties for their gracious acceptance of the members' tender of service in the late Masque. The King in acknowledgment expressed his readiness on all occasions to do the Inns and their members any favour; while the Queen assured them that she had never seen any Masque more noble or better performed, which she took as a particular respect to herself as well as to the King her husband, and desired that her thanks might be returned to the gentlemen for it.

"Thus," concludes Whitelocke, thinking perhaps of the tragic events which followed, and another scene enacted outside

<sup>1</sup> B. 120.

that Banqueting House fifteen years later, "these dreams passed and these pomps vanished."

In further acknowledgment of the services of the gentlemen of the Inns of Court in the performance of this Masque, the King invited them to witness one which he and some of the Lords were about to perform at Whitehall. The invitation, conveyed by a letter from the Lord Chamberlain to Lord Keeper Coventry, dated February 5th, 1633, was in the following terms :

"My Lord, the King is so much taken with the noble entertainment which hath been brought unto him by the gentlemen of the Inns of Court that being not satisfied with the manie expressions which he hath hitherto made of his gracious acceptance his Ma<sup>tie</sup> is further pleased to favour them with a solemne Invitacon of one hundred and twenty gentlemen of their Companies unto the Masque which is to be danced by his Ma<sup>tie</sup> upon Shrove Tuesday next and his Ma<sup>tie</sup> hath made choyce of your Lordshipp to convey this invitacon unto them which I assure myself your Lordshipp will performe with that civilitie and grave discrecon which maye expresse the bountie of his Ma<sup>tie</sup>'s intentions. And so I take my leave and rest yor Lspps most affectionate servant, Pembroke and Montgomery." <sup>1</sup>

This was the Masque *Cælum Britannicum* by Sir William Davenant. The Templars thus honoured duly attended upon Shrove Tuesday, and were "well placed." <sup>2</sup>

The following anonymous lines by an admiring contemporary, express his delight "att the seeing of the solemne triumphs of the gentlemen of the Innes of Court riding with the Masque presented before his Ma<sup>tie</sup> Feb. 3, 1633" :

"Now did Heaven's charioteer the great daies starr  
In Western Ocean lave his weary Carr ;  
And Cynthia shininge with her borrowed light  
Sate Queene of her great royaltie the night ;  
When the flower colledges of Law did bringe  
Prepared triumphs to their Sovereaine Kinge  
Soe full of joy that I was confident  
When first I saw this goodly Regiment  
And all the glitteringe of this comely traine,  
The silver age was now returned againe.

<sup>1</sup> B. (end) 12.

<sup>2</sup> Rev. G. Garrard, Strafford Letters.

Nor did I marvaile that the pale fact moone  
 Had gott soe high and filld her orbe soe soone.  
 Belike she meant to take her fullest veiwe  
 Of this well marshalld and soe brave a Crewe  
 Forsakinge Latmas which she loved whilere  
 When everie man lookt like Endymion here.  
 Never were chariotts at the Olimpicks games  
 Soe richly filld with sonnes of Grecian Dames  
 Nor could Escanius on Cicilian shore  
 Lead such a Lovelie troope to ride before  
 The Troian Princes and his warlike Sire  
 As did th'auncient Mournivals conspire  
 To shew at once to each beholder's eye  
 The Flower of Gentrie hope of Chivalrie  
 Theis are the sonnes of Charles his peacefull Raigne  
 Whome yet if warr's rude accents shall Constraine  
 To put on armes, will quickly understand  
 The Lawes of Armes as well as of the Land,  
 And be as valiant in the midst of fight  
 As they seemed glorious in the Masque of night." <sup>1</sup>

The opportunity to put on arms came soon enough, but when it did come, the arms were not all put on for the King.

The mention of Lord Keeper Coventry as the medium through whom the King's invitation to the Royal Masque was transmitted to the Inns of Court, calls for some notice of a distinguished lawyer whose name is honoured in the Inner House. The eldest son of Sir Thomas Coventry of Earl's Croome, Worcestershire (a Reader of the Inn and later a Judge of the Common Pleas), Thomas Coventry, as Clarendon says, "was a son of the robe." From Balliol College, Oxford, he was admitted to the Inner Temple on June 1st, 1595,<sup>2</sup> and called to the degree of the Utter Bar on May 19th, 1603.<sup>3</sup> Eleven years later (October 18th, 1614) he was elected a Bencher, and served as Reader in the summer of 1616.<sup>4</sup> In November of the same year he was appointed Recorder of London, and Solicitor-General in the following March, when he received the honour of knight-hood.<sup>5</sup> In January, 1620, he was advanced to the office of Attorney-General.<sup>6</sup> Observing upon his rapid rise in the profession, Lord Clarendon writes :

<sup>1</sup> State Papers Domestic, Chas. I, Vol. CCLX, No. 14.

<sup>2</sup> "Thomas Coventree de Hyll Crome in Com. Wigorn. generosus filius et heres apparens Thome Coventree Armigeri unius Magistrorum de Banco hujus Comitivæ admissus est in Societatem istius Comitivæ ad parl. tent. apud Interius Templum primo die Junii anno regni Reginæ Eliz. XXXVII<sup>6</sup>": Admissions Bk. (1571-1640), 245.

<sup>3</sup> A.P. II, 48.

<sup>5</sup> Shaw, II. 161.

<sup>4</sup> *Ibid.* 110, 119.

<sup>6</sup> Foss, VI, 277-285.



“ He made a notable progress by an early eminence in practice and learning so much as he was Recorder of London Solicitor General and King’s Attorney before he was forty. A rare ascent ! All which offices he had discharged with great ability and singular reputation of integrity.” <sup>1</sup>

For a period of eight years (1617 to 1625) he acted as Treasurer of the Inner Temple, carrying out some useful building operations and at the same time improving the Society’s financial position ; services which won him a handsome acknowledgment from the Inn after he had vacated the Treasurership in November, 1625, on his appointment as Lord Keeper.<sup>2</sup> He held the Great Seal till his death in January, 1640, having been raised to the Peerage in April, 1628, as Baron Coventry of Aylesborough. Of his conduct as a Judge Lord Clarendon says :

“ He enjoyed his place with an universal reputation (and sure justice was never better administered) for the space of about 16 years <sup>3</sup> even to his death some month’s before he was 60 years of age which was another important circumstance of his felicity, that great office being so slippery that no man had died in it before for near the space of forty years. . . . He was a man of wonderful sagacity and wisdom ; and understood not only the whole science and mystery of the laws at least equally with any man who ever sate in that place ; but had a clear conception of the whole policy of government in Church and State.”

And again of Lord Coventry’s aptitude in affairs, “ He knew the temper disposition and genius of the Kingdom most exactly.” <sup>4</sup> His death at a critical juncture in the national fortunes seems to have been a public disaster, removing as it did a moderating influence which might have served to restrain the unwise pretensions of the Crown and to draw King and Parliament together.

Though his years of office coincided with a time when Charles I was attempting to govern independently of Parliament, and the Lord Keeper was instrumental in obtaining the opinion

<sup>1</sup> Hist. I, 80.

<sup>2</sup> A.P. II, 127-154 ; also 171.

<sup>3</sup> November 1st, 1625, to January 14th, 1639.

<sup>4</sup> Hist. I, 81, 82.

of the Judges in favour of the Ship money taxation, there is remarkable contemporary testimony to the respect entertained for him and his general popularity with the nation.

“He was a very wise and excellent person,” says Lord Clarendon, “and had a rare felicity in being looked upon generally throughout the kingdom with great affection and a singular esteem, when very few men in high trust were so.”<sup>1</sup>

While Sir George Croke (Justice of the King’s Bench), though holding widely different opinions from the Lord Keeper on the subject of Ship money, pays him a like tribute : “He was a pious, prudent and learned man and strict in his practice, being Lord Keeper fourteen years and upwards : he died in great honour and much lamented by all the people.”<sup>2</sup> Removed from the troubles to come, while still basking in the sunshine of prosperity, “it is hard to say,” remarks Fuller, “whether his honourable life or seasonable death was the greatest favour which God bestowed upon him.”<sup>3</sup>

<sup>1</sup> Hist. I, 231.

<sup>2</sup> Croke’s Reports, IV, 565.

<sup>3</sup> Worthies, 171. Lord Campbell, writing two centuries later, thought he knew better. For he rejects these contemporary opinions, and portraying the Lord Keeper in the darkest colours as selfish, unprincipled, reckless, and a plausible hypocrite, would have it believed that he was so obnoxious to the people that his opportune death alone saved him from exile or the scaffold (Chancellors, II, 535, 538). No wonder it was said Lord Campbell’s Lives had added a new terror to death.

## CHAPTER X

### THE TEMPLE DURING THE CIVIL WAR AND THE INTERREGNUM

IF the dynastic struggles of the fifteenth century, commonly called the Wars of the Roses, appear to have had little effect on life in the Inns of Court, the same cannot be said of the Great Rebellion. On January 4th, 1641, the King made his unwise attempt to arrest the five members, Hampden, Pym, Holles, Haselrigg, and Strode, who had escaped from Westminster to the secure shelter of the City. Six days later he left Whitehall only to return after seven years as the prisoner of the Parliament. By April both sides were raising forces for the now inevitable conflict, the King by Commissions of array, the Parliament through the Lords Lieutenant, and when on August 22nd the royal standard was unfurled at Nottingham, Civil War had definitely begun. Thus the appeal to arms almost coincided with the close of the Summer Readings at the Temple. The Reader at the Middle Temple on this occasion was Mr. William Hussey. No further appointment to the office was made by that Inn for nineteen years.

At the Inner Temple the Readings also ceased, but there the procedure followed was different. On November 27th, 1642, Mr. Philip Wyott, a Master of the Bench, was chosen Reader for the ensuing Lent, and although he never read and seems to have absented himself from the Inn, he was regularly reappointed in each succeeding May and November, until November, 1655, when the appointment of a Reader was respite<sup>d</sup> for further consideration.<sup>1</sup> Stewards were likewise successively appointed for the Reader's dinner, which presumably was never held.<sup>2</sup>

<sup>1</sup> A.P. III, 37, 43, 44, 46, 51, 59, 60, 63, 99, 104, 106.

<sup>2</sup> At the Inner Temple it was ordered, November 24th, 1652, that the Stewards appointed should each pay £20 into the Treasury of the House, "whither such readings hold or nott": A.P. III, 86,

It might have been expected that in the struggle which now began, the gentlemen of the Inns of Court—essentially aristocratic as the Societies at this time were—would have ranged themselves on the King's side. At an earlier period in the reign they might have done so, but the later policy of the Crown had largely alienated their sympathies, and Coke and Selden had lent their learning to the cause of the Parliament. Moreover, the conflict was not a war of classes. The leaders on both sides were men of rank and position. Two Earls, Essex and Manchester (members respectively of the Inner and Middle Temple), were the first Commanders of the Parliament's armies. Hampden and Fairfax were country gentlemen of ancient lineage, and even Cromwell, destined later to rule alone, though belonging to the newer gentry and a family founded on the plunder of the Monasteries, was essentially an aristocrat. Thus, when the storm broke, no general demonstration of loyalty came from the Inns of Court. In this they probably disappointed the King. Their expressions of devotion to the throne in the great Masque of 1633 must have been fresh in his recollection, and on December 30th, 1641, only a few days before the ill-judged attempt upon Hampden and his fellows, five hundred gentlemen from the Societies, believing Charles in danger of personal violence, had marched down to Whitehall, armed for his protection.<sup>1</sup> Had Charles remained at Whitehall and made honest concessions, the violence of his opponents might have rallied the Societies to his side, but by turning his back on London, he abandoned them to the mercy of the Parliament, and though they numbered many among their members who eventually espoused the royal cause, when the die was finally cast they proved to be divided in their allegiance.

For a time the Temple seems to have been almost entirely deserted. Commons ceased in both Inns, and the whole Collegiate life was suspended. Instead of the former abundant flow of new admittances, few joined the Societies in the early years of the Civil War. In 1642, after August 22nd, there were only four admissions to the Middle Temple; in 1643, but seven; and in 1644, eleven. Even more striking is the absence of

<sup>1</sup> A proceeding which caused the Commons to intimate "that the House have taken notice of the practice of some gentlemen that have endeavoured to engage the gentlemen of the Inns of Court to be in readiness upon all occasions to come down to the Court if they should be required; that this House has sent for those gentlemen that were with them, as delinquents, and do believe their crime will prove to be of a high nature": D'Ewe's Journal, Harl. MSS. CLII.



Benchers. Between November, 1642, and May 21st, 1644, only one parliament was held in the Inn, and the Minute which records the proceedings (May 12th, 1643) makes plaintive reference to "these hard and troublesome times when there are no publike Commons kept in the House."<sup>1</sup> While a further Minute of October 31st, 1645, after reciting that

"through the troubles and distracons of the times by reason of these unnaturall civil warres there hath beene no Reading in this or any other the Innes of Court for these three yeares last past by meanes whereof the number of Benchers is growne very small to what in former times it hath beene,"

proceeds to record that in consequence the Masters of the Bench have thought fit to call up four of the ancients of the Utter Bar to sit with them as Associates at the Bench table.<sup>2</sup>

Again, in the following February the great troubles of the Kingdom, long discontinuance of Commons, dispersion of members and interruption of learned exercises, are deplored in a Minute which promises the special favour of the Bench to all who will apply themselves to keep Commons and perform exercises during the next vacation time.<sup>3</sup> It was not, however, till May, 1647, that any serious attempt seems to have been made to resume the educational work of the Inn. By that time, though the actual fighting was by no means over, the Parliament had triumphed, and the King, betrayed by the Scots Army at Newcastle, was a prisoner in their hands.

The Records of the Inner Temple reveal a similar condition of things in that Society, and contain like references to the dislocation of the times. Thus, on January 30th, 1645, there is mention of "the many Benchers Chambers now voyde and possessed by strangers who have noe right to continue in the same," and "the many Benchers chambers nowe voyde and not inhabited and the smale number of Benchers to possesse the same whereby the chambers fall into much decay";<sup>4</sup> while on July 2nd, 1647, a petition by the four puisne Butlers is noticed "for an addicon to their former allowances and their areares of wages dureing such time of theis unnaturall warrs as there was noe Comons in this House."<sup>5</sup> There, the customary

<sup>1</sup> B. 274.<sup>2</sup> B. 285.<sup>3</sup> B. 289.<sup>4</sup> A.P., III, 40,<sup>5</sup> *Ibid.* 46.

vacation Commons appear not to have been resumed till the close of 1649, a Minute of that year reciting (February 5th) that "by reason of the late unhappy troubles the Comons of the house and all exercises of learninge usuall in the times of vacacon have ever since August 1642 bin wholly discontinued," and enacting that henceforth they shall be continued and kept under the usual penalties and forfeitures.<sup>1</sup>

Meanwhile the Parliament at Westminster from the outset of the struggle had carried matters with a high hand, and shewn themselves no more tolerant of judicial independence than the Stuarts had been. Of this the case of Mr. Justice Malett affords a striking illustration. Admitted to the Middle Temple on November 29th, 1600, Sir Thomas Malett was called to the Bar on November 7th, 1606. Reader for Lent nineteen years later, he sat in the two first Parliaments of King Charles as a supporter of the Court party. In October, 1633, he was chosen Treasurer of the Inn, and in 1635 became Solicitor-General to the Queen and a Serjeant-at-Law. In 1641 he was raised to the King's Bench, and received the honour of knighthood.<sup>2</sup> As might be expected in the polemics of the day his sympathies were all on the King's side. In the summer of 1642 he was deputed under the usual royal commission to hold Assizes for the County of Kent. While so engaged there appeared in his Court at Maidstone a deputation from the Houses of Parliament bringing certain declarations and orders of the Parliament which they demanded he should cause to be publicly read in open Court. These documents were in support of the ordinance of Militia under which the popular party were then raising troops, and directed against the royal Commissions of array. To this demand the Judge replied that he only sat there by virtue of his Majesty's Commission, and had no authority other than it gave; that it did not extend to the reading of these documents, and that he must decline to allow them to be read. This no doubt was a perfectly proper reply, though had his Lordship's sympathies lain elsewhere he might have been less scrupulous about confining himself within the limits of his commission.

Foiled of their purpose, the discomfited deputation returned to Westminster, with great exclamations, it is said, against Mr. Justice Malett as the fomentor of a malignant faction against the Parliament. If, however, Mr. Justice Malett was in the right in this matter, and the Houses in the wrong, they

<sup>1</sup> A.P. III, 66.

<sup>2</sup> D. 348; C. 202; B. 114; Shaw, II, 209; Foss, VII, 144.

had nevertheless one argument which it is difficult to answer, that is force, and they decided to use it. The Judge had concluded the Kent business and was holding the Assize for the County of Surrey at Kingston, when there suddenly appeared at his Court an officer accompanied by a troop of horse and bearing a warrant for Sir Thomas Malett's arrest, which, regardless of the scandal to public justice, he proceeded to execute in the most offensive manner by forcibly removing the learned Judge from the Bench and carrying him off in custody to Westminster. Committed to the Tower by the order of Parliament, he remained a prisoner without being brought to trial—for no charge could be framed against him—until the Houses two years later, to suit their own convenience, agreed to his exchange for one of their supporters then in the King's hands.<sup>1</sup>

It was not to be expected that a power which showed so little regard for the dignity of the Judges' office would leave the lawyers' Societies long undisturbed. While Mr. Justice Malett was still in the Tower the Parliament began to busy itself with the affairs of the Temple, and to interfere there with an arbitrariness to which even King James had never aspired. The first object of their attention seems to have been the Temple Church. On Saturday, May 27th, 1643, the following order was made at Westminster :

“It is this day ordered by the House of Commons that the Treasurers of the Temple (*sic*) be desired to lend upon the publique faith the basons and candlesticks of late yeares made

<sup>1</sup> Clarendon's Hist. (1826), III, 153–155. This was not the first occasion upon which the Parliament had scandalized public justice. Sir Thomas Malett's predecessor, Mr. Justice Berkeley (also a former Reader of the Middle Temple), had been treated at an earlier date (1640) with like indignity. He was one of the Judges who gave an opinion favourable to the King's claim to impose Ship money independently of Parliament. Even if that opinion was correct as matter of Law, it was still, in the circumstances, an unfortunate one, and it is therefore not surprising in the heated temper of the times that the Commons should have demanded Sir Robert Berkeley's removal, and impeached him for high treason. Nor was the enormous fine of £20,000 (probably equal to more than £100,000 of modern money) which the Lords imposed upon him, with total disqualification from holding any office in the State, though harsh and vindictive, an affront to decency. But no excuse can be offered for the outrage committed in sending the Usher of Black Rod to arrest the learned Judge on the Bench in Westminster Hall, and hail him off to prison from the very seat of Justice. And this was a judge whom even Bulstrode Whitelocke was constrained to praise as a good judge, moderate in his ways and eminent for his learning (Memorials, 40 ; see also D.N.B. IV, 366, 367 ; Rushworth, II, 606–614 ; Hamon L'Estrange, Charles I ; Foss, VI, 257–259). Memorials of Sir Thomas Malett and Sir Robert Berkeley are side by side in the third window of the Middle Temple Hall, south side.

to be used upon the altar and are required that the rayles about the table and the crosses about the church be pulled downe and the table removed from standing altarwise and the ground levelled.”<sup>1</sup>

That the articles desired were duly delivered up appears by a receipt dated June 10th, 1643, and signed by two treasurers authorized by an ordinance of both Houses “to receive all such monies and plate as shalbe brought in according to certain proposicons printed and published together with the said ordinaunce.” This receipt reads :

“Eighty seaven ounces 15 dwt. of silver plate troyweight amounting in value with the fashion at  $5/4$  per ounce to the sune of twentie foure pounds twoe shillings seaven pence (2<sup>d</sup> on the ounce being allowed for gilt) which is to be employed according to the said proposicons.”<sup>2</sup>

The “publique faith,” however, as might be expected, proved a broken reed. Neither the plate nor its value was ever restored to the Temple Church.<sup>3</sup>

The next act of interference was the appointment of a new lecturer. This was done by the following order, dated June 9th, 1643 :

“Whereas Mr. Hugh Crescie appointed by the Societies of the Temple to be a Lecturer and preach every Lord’s Day in the afternoone in the Temple Church which hath beene wholly neglected by him to be done by the space of three moneths last past he having by all that time voluntarily absented himselfe and as is informed hath beene and now is in the Armie raised by the King against the Parliament by meane whereof that place being of great eminency and of which due care ought to be taken hath beene of late very ill supplied and the House of Commons being fully satisfied of the abilities in learning and the integritie of life and conversacon of Mr. George Newton a minister in holy orders who is violently expulsed and driven away from the place of his ministry in Taunton in the County

<sup>1</sup> B. (end) 20. Eight members were nominated to see this order carried out.

<sup>2</sup> B. (end) 20. Signed “John Wollaston and John Towse.”

<sup>3</sup> I.T.R. II, Intro. cii.



of Somersett by the power of those forces which are now in actual warre and rebellion against the Parliament under the command of the Marquis of Hertford and Sir Ralph Hopton and conceiving the Temple Church to be a fitt place for the said Mr. Newton to exercise his ministry in and that the House in duty ought to provide a fitt and able man to officiate there Doe order declare and ordain that the said Mr. Newton shalbe Lecturer in the place and stead of the said Mr. Crescie in the Temple Church aforesaid and do will and require all and every the Treasurers Benchers Masters and Fellows of those Societies so to accept and allow of him And all and every the officers belonging unto that church or place are required to be attending upon him accordingly.”<sup>1</sup>

This order further directed the Treasurers and Benchers to put Mr. Newton in peaceable possession of the chambers and lodgings which Lecturers had theretofore used and enjoyed, and to pay him the usual stipend or salary and to retain any arrears due to Mr. Crescie, to be disposed of as the House of Commons should direct. The Inner Temple Accounts for the years 1643 and 1644 show payments to this gentleman in respect of his stipend as Lecturer;<sup>2</sup> but his tenure of the office was short, for on May 18th, 1645, another person, Mr. John Tombes, received for the duty £20 “gathered on the roll of collections for the preacher.”<sup>3</sup>

With this action of the House of Commons may be contrasted the intervention of King James I in 1613, when he recommended to the Societies the Rev. Alexander Simpson as a proper person for this office, and on their raising objections to the appointment at once accepted their answer and pressed the matter no further.<sup>4</sup> As the letters patent of 1608 only reserved to the Crown the appointment to the Mastership of the Temple, the House of Commons, even as the *de facto* government, had no title to force a nominee of their own into the position of Lecturer, but in such times it was not to be expected that power seized by violence would be used with moderation.

The next order sent to the Temple had reference to certain

<sup>1</sup> B. (end) 20, 21. Signed “H. Elsynge Cler. Parl. D. Com.”

<sup>2</sup> Gen. Acct. Bk. I, 291, 292.

<sup>3</sup> M.T. Cal. 156; see also Gen. Acct. Bk. I, 297.

<sup>4</sup> See A.P. II, 103, where the royal letter and the reply of the Benchers are set out; also B. (end) 24, for King's acceptance of the Benchers' answer.

active supporters of the royal cause. All such persons were described by the Parliament as "Delinquents." It emanated from the Committee of Lords and Commons concerned with the sequestration of Delinquents' estates, and commanded the Treasurer and Benchers of the Middle Temple to "seize into their hands and custodie and secure the chambers, goods, chattells and books" of seventeen named members of the Society, including amongst others Mr. Ball, Attorney to the Queen, Mr. Serjeant Brerewood, Mr. Serjeant Hyde, Mr. Edward Hyde, and Mr. Lane, the Prince's Attorney. It likewise ordered them to

"forthwith make, or cause their Under Treasurer to make, and present to the said Committee in writing . . . a true and perfect list or catalogue of all the names of such gentlemen as now have or (if dead) lately had, or by their leave or permission used and enjoyed, any chamber or part of a chamber in their house, distinguishing them by such certainties as they may be knowne,"

and forbade them to admit any one by assignment to any chamber or part of a chamber till the receipt of further orders from this Committee.<sup>1</sup>

A few particulars regarding the above-mentioned delinquents will be of interest. Peter Ball was a Devonshire man and Recorder of Exeter. Joining the King on the outbreak of hostilities, he was knighted at Oxford in October, 1643. He suffered much financially in the royal cause; but compounding with the Parliament in 1646 for a fine of £1250, returned to the Inn and was elected Treasurer in 1653. At the Restoration he recovered his offices of Queen's Attorney and Recorder of Exeter. He died in 1680 at the ripe age of eighty-two. Serjeant Brerewood was Recorder of Chester; he also followed the King to Oxford, where he was knighted and appointed a Justice of the King's Bench (January, 1643). He, too, compounded with the victors for a fine of £659, but did not live to see the Restoration, dying in 1654. Serjeant Robert Hyde was Member for Salisbury in the Long Parliament. A whole-hearted supporter of the King, he suffered accordingly. At the Restoration he

<sup>1</sup> At Lincoln's Inn under a similar order from the Parliament, the chambers of forty-five members of that Society were seized and sold for the benefit of the Inn: *Black Books*, II, p. xl.

was raised to the Bench in the Common Pleas and knighted. In 1663 he was promoted to be Chief Justice of the King's Bench. Edward Hyde (the future Lord Chancellor Clarendon), who had already made for himself a name in the House of Commons, had joined the King at York, and became his most confidential adviser. Richard Lane had been Treasurer of the Middle Temple Society in 1637. He had so skilfully assisted Lord Strafford during his trial in Westminster Hall, that the Commons were obliged to drop their impeachment and proceed against the Earl by Bill of Attainder. Knighted and appointed Chief Baron of the Exchequer in 1644, he received the Great Seal from Charles I a year later, on the death of Lord Keeper Littleton. Driven into exile by the failure of the royal cause, he died at Jersey in 1650.

Returning to the main course of events, Dr. Littleton, Master of the Temple, and his curate, Mr. Pearson, as supporters of the King, were the next objects of attack. On November 27th an order made by the Committee of the House of Commons "concerning plundered Ministers" commanded the Treasurer and Benchers of the Middle Temple Society to forbear to pay, or to permit their officers or servants to pay, to these clergymen any money due, or which might grow due to them for reading prayers, preaching, or any other way officiating in the Temple Church, and requiring them meanwhile to certify, by a true and particular note in writing, what monies were owing to Dr. Littleton and his curate, that further order and course might be taken by the Committee therein.<sup>1</sup>

As King Charles had left London some months before the commencement of hostilities, and been followed in May by Lord Falkland, Edward Hyde, and other members of Parliament who espoused his cause, it is probable his adherents in the Temple had done likewise, and that the Benchers who remained in the Inn were in sympathy with the popular party. At any rate there is no record of any protest by them against these acts of interference. The Commons next proceeded to allocate chambers in the Middle Temple as follows :

February 13th, 1644 : " It is this day ordered by the Commons assembled in Parliament that Mr. Whitelocke shall have the chambers in the Middle Temple formerly belonging unto the Prince's Attorney Mr. Lane and the garden and all the bookes

<sup>1</sup> B. (end) 22.

and the goods in those chambers freely bestowed upon him ; the goods and the bookes to be inventoried ; And that he enjoy the chambers goods and bookes in as free and ample manner as Mr. Lane the Prince's Attorney did or might have done in his owne right or any right conveyed upon him." <sup>1</sup>

Whatever the feelings of the Benchers under this dictation, those in town thought it prudent to submit. Accordingly a minute of May 21st, 1644, records :

" which said order the Masters of the Bench having taken into consideracon doe in obedience thereunto order and conclude that the said chambers and garden be discharged of and from all privileges of a Bencher's chamber and doe admit into the same the said Mr. Whitelocke to have and to hold the said chambers and garden for and during his naturall life without anye fine to be paid therefore." <sup>2</sup>

This compliance was followed by further interference of a like kind. On October 26th, 1644, the Benchers were ordered to admit Robert Nicholas,<sup>3</sup> a member of the House of Commons (but not a member of the Inn), to the chamber of Mr. George Beare<sup>4</sup> and Robert Reynolds, Esq., also a member of the House of Commons, and later Solicitor-General to the Commonwealth, to the chamber of Sir Edward Hyde, with his printed books and manuscripts.<sup>5</sup> In these cases, also, as the records prove, the orders were obeyed. In the case of Sir Edward Hyde's chamber, however, the Benchers ventured to impose a condition which showed some trace of independence.

" It is ordered that Mr. Robert Reynolds be admitted into the chamber late of Sir Edward Hyde Kt. taken by sequestra-

<sup>1</sup> B. 276. Messrs. Maynard and Lisle were appointed to acquaint the Benchers with this order, and see it put in execution to the full advantage of Mr. Whitelocke.

<sup>2</sup> *Ibid.*

<sup>3</sup> Robert Nicholas was a member of the Inner Temple Society. M.P. for Devizes, he played a virulent part in the prosecution of Laud, 1643. The Commons made him a Serjeant-at-Law, October 30th, 1648, and a Judge of the Court of Upper Bench in 1649. Moved to the Court of Exchequer by Cromwell, he was transferred back to the Upper Bench in January, 1660. At the Restoration his Serjeant's degree was not confirmed, and he retired into private life : see Foss, VI, 463-465 ; D.N.B. XL, 431.

<sup>4</sup> B. 279 : one of the seventeen proscribed " delinquents."

<sup>5</sup> B. 279, 280.



tion and granted unto him by the Commons House of Parliament so that he pay the duties oweing to the House and monies oweing to the steward of the House for Commons which should have been payed long since by the said Sir Edward Hyde And the said Mr. Reynolds shalbe authorized and have power to put the bond of the said Edward Hyde and his sureties in sute.”<sup>1</sup>

It would no doubt have caused Sir Edward Hyde some satisfaction had he known that his enemies who had confiscated his books and manuscripts had been constrained to thus collect from one of themselves the debt he owed to the Inn.<sup>2</sup>

It will be noticed that except in the case of the Church the incidents above mentioned relate only to the Middle Temple. There seems to be no evidence of any similar interference with the Inner House. In the absence of the King from London, no fee farm rent had been paid for two years. This did not escape the vigilant eye of the Parliament, and on June 27th, 1645, a Revenue Committee sitting at Westminster made an order as follows :

“ It is this day ordered that Mr. Treasurer of the Middle Temple London doe forthwith pay the fee farme rent due to the Crowne in arrear twoe yeares ended at our Ladies Day last. Signed H. Vane, Henry Mildmay, F. Rous, Tho. Hoyle.”<sup>3</sup>

Next day the two years' rent was paid.<sup>4</sup> In this order the name of the Middle Temple Treasurer is left blank. Master Richard Parker had been chosen Treasurer of the Inn on July 9th, 1641 :<sup>5</sup> no further appointment was made till February 6th, 1645, when Master John Puleston was nominated to assume the office in the following term. Another proof of the dislocation of the times.<sup>6</sup>

Not satisfied with the steps already taken against individual “ Delinquents ” in the Inns of Court, the House of Commons, on October 23rd, 1646, issued a further general order to the following effect :

<sup>1</sup> B. 299.

<sup>2</sup> By a later order, however, Reynolds seems to have been excused the debt for Commons (July 2nd, 1647), B. 313.

<sup>3</sup> B. (end) 22.

<sup>5</sup> B. 249.

<sup>4</sup> M.T. Cal. 156.

<sup>6</sup> B. 289.

"That the Judges and Serjeants of the several Serjeants Innes, the Benchers of the severall Innes of Court and the Members of this House of the severall Innes of Court respectively, doe take care that no persons who have adhered to the enemy against the Parliament be permitted to come againe into any of their chambers or be admitted into any of the Serjeants Innes, Innes of Court, or Innes of Chancery, or to live in any of the said Societies." <sup>1</sup>

By the year 1647 the Middle Temple Society had sufficiently recovered from the disastrous effects of the Civil commotions to induce the Benchers, on May 13th, to invite a renewal of the old-time exercises of learning :

"Whereas now (all passages being open to and from all parts of the Kingdome) there is a free libertie for all members of this Society to resorte and returne to the House and there is now a competent number of students and Barristers vacationers met in Commons and residing in or about the house and towne who ought to performe the exercise of the house in their turnes in course of antiquitie according to the orders of the house The masters of the Bench therefore taking the premises into consideracon doe publishe and declare to all the Barristers Vacaconers now in Commons and residing in the house or in and about the towne that they are resolved this terme to recontinue and set up the exercise of mooting and doe order and appoint that the same shall begin on Tewsday next the 18th day of this instant May," etc. <sup>2</sup>

Further evidence of returning vitality is afforded in 1648 by petitions presented to the Middle Temple Bench requesting leave to rebuild decayed chambers and by building operations in the Inner House in Inner Temple Lane.<sup>3</sup> Moreover, in the same year the Benchers of the Middle Temple revived the order of February 7th, 1639, against the giving of Feasts by Barristers on their call to the Bar or by those under the Bar on their first exercise of Moots brought into the Hall, and directed that it should be observed and strictly executed.<sup>4</sup>

<sup>1</sup> B. (end) 23.

<sup>3</sup> B. 323, 328 ; A.P. III, 54.

<sup>2</sup> B. 307.

<sup>4</sup> B. 324.

Though the educational work of the Inns on the old lines had been suspended calls to the degree of the Utter Bar did not entirely cease. At the Middle Temple two members were called in May, 1643, and a like number in July of the following year; four in June, 1645, two more in November, and one in the following February. Three were called in June and twelve in November, 1646; while in 1647 (including one in February) no less than twenty were called at the Middle Temple. At the Inner Temple also calls continued, three members of that Society being called in 1643, six in 1644, two in 1645, nineteen in 1646, four in 1647, and twenty-two in 1648. In the whole period between the outbreak of civil war and the death of the King (August 22nd, 1642, to January 30th, 1648), fifty-seven were called at the Middle Temple and fifty-six at the Inner Temple.

The office of Reader being in abeyance, appointments of Cupboardmen also ceased for a time, and lists no longer appear in the Middle Temple Minute Books of "Utter" and "Inner" Barristers fined for non-attendance at the Readings; for these fines were not revived when the Readings were again instituted.<sup>1</sup>

The cessation of Readings had a further effect at the Middle Temple; it automatically stopped the flow of new blood to the Bench of the Inn, making it necessary to adopt some other system of recruiting new members of the governing body. Hence the practice was introduced, which had so long prevailed at the Inner Temple, of calling members to the Bench conditioned to read in future when required to do so. On October 31st, 1645, four Utter Barristers were thus called to the Bench at the Middle Temple,<sup>2</sup> and eight more on November 24th, 1648,

"with this special proviso neverthelesse that if any of them thus called or to be called shall refuse to read in their turne or when they shalbe thereto appointed they and everie of them shalbe subject unto and undergoe such fine as the Masters of the Bench for their refusall in their discrecons shall think fitt to impose and also expect to be disbenched." <sup>3</sup>

From this innovation it eventually resulted that all appointments to the office of Reader were made from the Bench; and

<sup>1</sup> For the last use of "Inner Bar," in these lists, see B. 251 (October 29th, 1641).

<sup>2</sup> B. 285.

<sup>3</sup> B. 339.

that instead of becoming a Bencher by virtue of reading, a member of the Inn only became eligible to be Reader by reason of his being already a Master of the Bench.

In a few cases at this unsettled time elections to the Bench took place free of any payment or other condition in consequence of the person elected being the holder of some important public office. The following records will illustrate this :

October 27th, 1648 : " It is ordered at this parliament that Mr. Whitelocke be called in to sitt with the Masters of the Bench in parliament upon this reason because he is one of the Commissioners of the Great Seale of England." <sup>1</sup> February 9th, 1649 : " It is ordered at this parliament that John Lisle Esq of the Utter barre one of the Lords Commissioners keepers of the Great Seale of England is called to the Bench and to Councell for the government of this House with the Masters of the Bench in their parliament." <sup>2</sup>

Similarly, Robert Reynolds, as Solicitor-General of the Commonwealth, on June 21st, 1650, was admitted to " the parliament and secret councell " of the House.<sup>3</sup> While in one case a gentleman was thus honoured who was not a member of the Inn, and had never been called to the Bar by any Society. This was Colonel Nathaniel Fiennes, second son of Viscount Say and Sele, who is said to have urged Cromwell to assume the title of King, and was made by him a Commissioner of the Great Seal.<sup>4</sup>

It has already been noticed that a payment to the Inn of £30 was imposed upon members elected Associates to the Bench, who, without incurring the expense of reading, became entitled to sit at the Bench table though having no voice in the government of the Society. This precedent was now followed in the case of Benchers elected as future Readers, and a payment of £50 required of them before their admission to the Bench table and to a voice in government. It being further enacted that if they subsequently discharged the duties of Reader, the £50 should be repaid them from the Treasury of the House.<sup>5</sup>

This payment was a trifling sum compared with the former expense of Reading, but none the less many of those elected

<sup>1</sup> B. 335.

<sup>2</sup> B. 343.

<sup>3</sup> B. 365.

<sup>4</sup> B. 451 (November 23rd, 1655).

<sup>5</sup> B. 357 (January 25th, 1649).



to the Bench under the new system proved unwilling to accept the honour.<sup>1</sup> Accordingly, on June 24th, 1653, the Benchers resolved that the nominations of all who neglected to make the deposit of £50 should be void, and they relegated to the Ancients' Table.<sup>2</sup> In the following November they went a step further, imposing in three cases of default the added penalty of a fine of £10.<sup>3</sup>

The Benchers of the Inner Temple also found it necessary to turn the Bench into a source of revenue, and in November, 1652, imposed a payment of £50 upon all members called to the Bench as future Readers, the sum to be repaid when the member actually read.<sup>4</sup> At the same time the former practice of occasionally electing Associates to the Bench who had the privilege of dining at the Bench table, but were not complete Benchers, still continued.<sup>5</sup>

The distinction between Associate Benchers and Reading Benchers was further emphasized at the Middle Temple by an order of November 24th, 1654, which enacted that the former should not be entitled to any Bench chamber without a special order of parliament, and that the latter must take their part in the terminal exercises of learning, whereas Associates were not required to attend the Moots in the Inn.<sup>6</sup>

The Civil War had affected disastrously the finances of the Inns of Court<sup>7</sup> and Chancery; and by February, 1651, the fraternity of New Inn were nine years in arrear with their rent to the Middle Temple. This caused the Benchers to order that if the £36 owing was not paid, portions of the New Inn premises should be let to the public.<sup>8</sup> Meanwhile, Master Bayliffe, Under Treasurer of the Middle Temple, had been extensively financing the Society, and in 1647 £1812 13s. was owing to him for money advanced for current expenses. Alarmed by the interest charged on so large an amount, the Benchers ordered £400 to be repaid him "out of the stocke of the House."<sup>9</sup> A year later, the remainder of the debt being still unsatisfied, Mr. Bayliffe petitioned for a further payment offering to accept £1000 in full discharge of the balance still due.<sup>10</sup> This offer the Benchers accepted, "liking well the peticoner's applying himselfe whollye to their favour," and directed a further £400 to be paid to him

<sup>1</sup> B. 375.

<sup>2</sup> B. 408.

<sup>3</sup> B. 413.

<sup>4</sup> A.P. III, 85.

<sup>5</sup> B. 393 (June 25th, 1652).

<sup>6</sup> B. 432.

<sup>7</sup> See M.T. Minute of April 18th, 1651, "Revenue and income never so lowe": B. 375.

<sup>8</sup> B. 387.

<sup>9</sup> B. 319.

<sup>10</sup> B. 335.

forthwith, and the residue "as soone as conveniently it can be raised and (necessarie charges of the house defrayed) gathered into the treasurie."<sup>1</sup>

On June 1st, 1649, the Benchers, to reduce their indebtedness to Mr. Bayliffe, even made an order

"that all the plate of the house more than is for ordinarie use, be forthwith solde by Mr. Treasurer and the monies thereof coming, payed to the Under Treasurer, in parte of satisfaccon of his debt due to him from the house."<sup>2</sup>

The financial embarrassment, however, did not last long, for on February 11th, 1652, the Benchers were able to record that they were out of debt—though chiefly "by wayes and meanes of raising monies amongst themselves." They accordingly remitted all arrears of pensions and duties on the Rolls owing before Michaelmas Term, 1646.<sup>3</sup>

In another way the troubles of the times had reacted unfavourably on the life of the Inns. The long absence of many members had given the opportunity for the intrusion into the Temple of persons who did not belong to either Society, and to a considerable extent families even had settled there. This was contrary to the old-established rules of both Societies, which in particular had always forbidden the presence of women. The extent to which the Middle Temple had been thus invaded, and the difficulty experienced in getting rid of these strangers, is proved by the circumstance that between May 24th, 1650 (when the Bench began to move in the matter), and June 1st, 1660, there are more than twenty references to it in the Minutes of the Society, and repeated orders for the expulsion of the intruders.<sup>4</sup>

It appears that some of the Benchers were themselves among the culprits, for the wives and families of Bulstrode Whitelocke and John Lisle (Commissioners of the Great Seal) and Mr. Hall (Attorney-General for the Duchy of Lancaster and a former Treasurer of the Society) were resident in the Inn. The Masters of the Bench no doubt found some difficulty in enforcing their orders against such legal dignitaries as the Lords Com-

<sup>1</sup> B. 340.

<sup>2</sup> B. 348. At Lincoln's Inn, also, the financial straits of the times forced the Benchers to sell much of the Inn's plate: see Black Books, Vol. II, p. xl.

<sup>3</sup> B. 402.

<sup>4</sup> See e.g. B. 367, 371.

missioners, and in the case of Mr. Hall there was a special reason for temporary indulgence in the illness of his wife. However, on November 24th, 1654, they made the following order :

“ It is alsoe ordered that all persons that shall not (the Lords Commissioners whilst they please and Mr. Attorney Hall during his wive's disabilitie to remove by sicknes, excepted) before St. Thomas day [December 21st] now next, remove their wives, women and famelys out of this Society, shall stand expelled out of the same And the chambers where any wives, women or famelys, shall that day or after be found or known to be, shall then immediately stand forfeited to the use of this Society, for their great contempt in not obeying the severall orders and faire warnings of departure heretofore made and for the dishonour and reproach occasioned by such famelys resident or being in this Society contrarie to the ancient and good government thereof ; And if any shall returne or come, after the said day they shall undergoe the same penalltys ; which that all may avoid or be excuseless, this order is to be fixed on the screene.” <sup>1</sup>

That even this order did not entirely achieve its object appears from an entry dated June 13th, 1656, which states :

“ Upon the Peticon of the Barristers and gentlemen of this House, now read, that the order of Nov. 24<sup>th</sup> 1654 and the many other good orders for expulsion of famyls out of this House may speedily be put in execution it is ordered that Mr. Treasurer doe forthwith see the same strictly observed according to those orders.” <sup>2</sup>

That a similar state of things existed in the Inner Temple is shown by a Minute of the parliament of that Inn dated June 27th, 1653, which contains the following recital and order :

“ Whereas manie and severall families and strangers having in and sithense the time of the late warres gotten into this House doe yett remaine and inhabite and continue therein contrarie to the auncient usages and customes of this Society and to the manifold inconveniences thereof therefore for reformacon

<sup>1</sup> B. 432.

<sup>2</sup> B. 460.

herein and to the end the House may be restored to its primary institucon and condicon itt is att this parliament unanymouslie resolved ordered and declared that all and singular families and strangers whatsoever doe and shall before the first daie of Michaelmas Terme next wholly and absolutely remove and depart out of this House and be noe longer suffered to abide lodge or remaine there in aniewise And that the puisne butlers of this house and clerk of the Church doe nott henceforth suffer anie woman to sitt or come into anie of the Benchers' seats in the Church But that those seats be on the next Lord's day and soe continually thenceforth kept for the use of the Benchers of this house onely as in former times they have bin." <sup>1</sup>

It is matter for surprise that the Benchers should have been constantly thwarted in their efforts to remove these strangers, especially considering that in both Houses they seem to have been supported by the general feeling of the members. That their orders proved ineffectual, however, is evident, for in February, 1659, the Middle Temple found it necessary to direct their Treasurer to confer with the Inner House, and invite that Society to make like orders with themselves for removing families and women from the Temple,<sup>2</sup> and on the following 1st of June, two days after Charles II made his public entry into London, they were still ordering the removal of women and families, and prohibiting their return.<sup>3</sup>

There is also during this period (notwithstanding all the former orders on the subject) evidence of the continued presence of Attorneys in the Inns. In 1656 two orders were made at the Middle Temple with regard to this. It was now a condition of the bond into which members entered on joining the Society, that they should not practise as Attorneys or Solicitors. This, however, must have been little regarded, for it is clear from the orders which follow that there were in the House at this time Attorneys who as such had long been suffered to remain members of the Inn. These, it seems, were to be treated with some indulgence; but no Attorneys were to be allowed to have chambers in the House, and those allowed to retain their membership were to sit at a table by themselves.

<sup>1</sup> A.P. III, 89. An order had been made at the Middle Temple, June 21st, 1650, for the exclusion of unauthorized persons from the seats in the church: see B. 365.

<sup>2</sup> E. 21.

<sup>3</sup> E. 25.



The first of these orders is dated May 2nd, 1656 :

“ Furthermore that such as Mr. Treasurer shall thinke fitt who practise as Attorneys or Common Sollicitors since admitted to this house contrary to their Bonds, their Bonds are to be forthwithsued and that the penalty of all Bonds of admittance in future be One hundred pounds And in case hereafter any admitted doe practise as Attorneys or Common Sollicitors their Bonds are not only to be sued but their chambers seised to the use of the House And in the Interim all Attorneys or Sollicitors are strictly to observe that they sitt at one Table in the Hall by themselves ; notwithstanding which their Masterships will as to the matter of their practice have a due respect to grave and able Attorneys of this house who have bin of longe continuance thereof.” <sup>1</sup>

The second order seven weeks later enacted (June 20th) as follows : That “ noe Attorney or Sollicitor that now is of this house shalbe permitted to buy or be admitted into any chamber or part of a chamber in this Society.” <sup>2</sup>

Although the Readings were not revived in either House until the Restoration, earlier attempts were made to reintroduce them. In the Autumn of 1649 the Benchers of the four Inns were convened before all the Judges upon this matter, and express orders issued to them to restore the Readings by the following Lent, “ under a very great penalty,” states a Minute of the Inner Temple, “ on whomsoever should fail therein.” <sup>3</sup> No result followed from this threat, however, so far as the Temple Societies were concerned, and on June 28th, 1650, the Middle Temple Benchers recorded that the revival of the Readings, though much desired, was conceived impossible without a competent number of attendants ; <sup>4</sup> while the Inner House wholly failed to induce Mr. Philip Wyott the Reader they had been continually reappointing to perform his duties. In May, 1656, a Committee of seven members was chosen by the Middle Inn to confer with the other Houses of Court “ concerning Readings and the incidents thereunto, effectually to promote the same ” and report. On June 13th two other members were added to this Committee.<sup>5</sup>

<sup>1</sup> B. 456.

<sup>2</sup> B. 462.

<sup>3</sup> A.P. III, 63 (November 5th, 1649).

<sup>4</sup> B. 366.

<sup>5</sup> B. 461.

Its deliberations, however, had no result, and an order enjoining the holding of Readings in the Inns of Court, issued by Cromwell as Lord Protector in the following year, was equally fruitless.<sup>1</sup> Nor do the Benchers of the Middle Temple seem to have been much more successful in restoring Readings at New Inn;<sup>2</sup> while on February 10th, 1648, the Inner Temple Bench resolved that the Readers of Inns of Chancery should not be required to attend till there was a Grand Reading at that Inn.<sup>3</sup>

The long cessation of Readings did not, however, prevent some revival of Mooting, and on June 5th, 1651, an order was made by the Bench of the Middle Temple requiring all members called to the Bench as prospective Readers to attend the Moots and take their turn for exercises of the House if in Town.<sup>4</sup> Two years later a further order was made (June 24th, 1653) regarding the participation of Barristers and students, and the neglect of the former when assigned in Term to moot to form pleadings to the case contrary to the ancient course and custom. For remedy this order imposed a fine of five marks on any Utter Barrister assigned in his turn to moot, who did not draw pleadings to his case and deliver them to the Master Butler at the beginning of dinner the day before, and on any student under the Bar assigned to repeat any such pleading who failed to do so, and directed that when pleadings were not rehearsed at the moot before falling to the case and argument, the moot should not be accounted an exercise, and that no Master of the Bench appointed to sit at any such moot should have any power to remit such fines or pleadings or the repeating of such pleadings by any such student.<sup>5</sup> This order was followed, on February 6th, 1656, by another forbidding reading at the Moots;<sup>6</sup> and on November 27th of the next year it was further enacted as follows:

“For the more increase of exercises and for the better improvement both of learning and the Honor of the Degree of the Utter Barr It is this day ordered that henceforth noe person whatsoever shalbe called to the Degree before he hath performed foure Mootes of which three at least to be performed in this Society,” etc.<sup>7</sup>

<sup>1</sup> I.T.R. II, Intro. cxvi; Burton's Diary, II, 313.

<sup>2</sup> See B. 432, 436, 460, 465.

<sup>3</sup> B. 378.

<sup>4</sup> B. 409.

<sup>5</sup> A.P. III, 51.

<sup>6</sup> B. 471.

<sup>7</sup> B. 482.

The order last quoted naturally leads to the consideration of calls to the Bar at this time. From January 30th, 1648, to May 29th, 1660, the period of the Interregnum, there were 133 calls to the Bar at the Middle Temple. The numbers called at different times varied greatly. Sometimes only one or two were advanced to the degree. The largest number included in one call was fifteen on November 25th, 1653. Sometimes the call is recorded as being made of grace and favour, the candidate not having performed all the required exercises; and sometimes it is made at the special instance or request of some eminent Bencher of the Inn, such as the Lord Whitelocke, the Lord Lisle, or Lord Fiennes.<sup>1</sup> Calling to the Utter Bar being still only a stage in the legal education of the graduate, there is insistence (as formerly) that the gentleman called shall have a chamber in the House, as a guarantee that he will continue his exercises of learning in accordance with the rules of the Society. Thus, on June 8th, 1649, there is added to a record of calls the words :

“ But not to be named or published to the gentlemen at this parliament but by the Treasurer at the Cupboard when they have given satisfaccion for past duties and bought chambers or given other securitie for their vacacons and assignments.” <sup>2</sup>

So likewise, on November 21st, 1651, a nomination of two members to be called next term attaches the condition, “ Provided in the meanetime they be admitted into chambers and doe exercise in the Hall this vacacon, commons continuing, otherwise not.” <sup>3</sup>

Again, four years later, on February 9th, 1654, it was ordered “ that henceforth noe man whatsoever shall be called to the degree of the Utter Barr untill he have bin the full time of seaven yeares of this Society and allsoe have performed exercises And doe attend the Masters of the Bench or most of them then in Towne with a Certificate under the sub-Treasuror’s hand testifieing that he hath bin his full time, done exercises, hath a chamber in this Society and discharged all dutys thereunto due; which, that all may both knowe and observe, this order is to be fixed on the screene every Terme.” <sup>4</sup>

<sup>1</sup> Commissioners of the Great Seal.

<sup>2</sup> B. 349.

<sup>3</sup> B. 383.

<sup>4</sup> B. 438; see also B. 482 (November 27th, 1657).

At the same time it was further ordered

“that noe men called to the barr may for three yeares after such call nor untill they have performed or compounded and paid for their Vacacons and Assignments sell or assign their Chambers the better to prevent the visible abuse to the house by manys who get a chamber for some few months till they be called and then sell them and neither performe nor compound for their vacacons and assignments.”<sup>1</sup>

On February 9th, 1659, the conditions of call as to time and exercises were again insisted upon, the Under Treasurer being absolutely forbidden to make any certificate for call to the Bar for any gentleman defective in either respect or to propose his name for that purpose.<sup>2</sup>

At the Inner Temple during the Interregnum the number of calls to the Bar greatly exceeded those at the Middle Inn : the total number for the period being 197. On various occasions very large numbers were called at one time. Thus 29 were called at the Inner Temple in November, 1653 ; 27 a year later ; 19 in June, 1656 ; and 23 in November, 1658. The excess over those called at the Middle Temple is remarkable, seeing that both before and after this period the aggregate number called in any reign appears to be generally greater at the Middle Temple than at the Inner House.<sup>3</sup> Here, too, some of the calls are stated to have been made at the special instance of some important person. Thus, Charles Heath, called January 28th, 1657, received the degree at the special request of his highness the Lord Protector, contained in his letter addressed to Mr. Attorney-General, the Treasurer.<sup>4</sup> In many cases the record of the call is accompanied by a statement that it is not to take effect until the recipient of the degree is of full seven years' standing in the House.<sup>5</sup>

At the Inner Temple also orders were made to enforce the due performance of the accustomed exercises of learning both

<sup>1</sup> B. 439.

<sup>2</sup> E. 22.

<sup>3</sup> This evidence of the prosperity of the Inner Temple at this time, coupled with the greater interference of Parliament with the Middle Temple, suggests that the Inner House were more in sympathy with, and favoured by, the popular party..

<sup>4</sup> Edmund Prideaux : A.P. III, 112.

<sup>5</sup> *E.g.* see A.P. III, 84, 108, 113.



before and after call to the Bar. Thus, on November 25th, 1658, it was ordered that

“Every fellow of this House before hee shalbe called to the degree of an Utterbarrister shall sitt and Argue sixe pettie mootes And shall Argue fower clarkes comone cases And bring in two library mootes And sitt two Imparlanes.”<sup>1</sup>

While as a security that the post-call exercises and assignments would be duly performed a deposit of £12 as caution money had been required in February, 1650, of each of the gentlemen at that time called to the Bar.<sup>2</sup> A sum which in November, 1653, was reduced to £4 each for the twenty-nine members then called.<sup>3</sup>

Ten days after the death of King Charles,<sup>4</sup> an Act or Ordinance was passed repealing the clauses in the Acts of Elizabeth and James I touching the oaths of Supremacy and Allegiance.<sup>5</sup> In place of these in the following September a new test was imposed called “The Engagement.” This was a promise to be faithful to the Commonwealth Government as established without King or House of Lords. This Act only imposed the obligation upon Mayors, Justices of the Peace, and other officers. In January, 1649, however, another Act gave the “Engagement” a much wider application by requiring it to be taken and subscribed by all men whatsoever within the Commonwealth of England of the age of eighteen and upwards.<sup>6</sup> Accordingly, on February 8th following, when two members of the Middle Temple were called to the Bar, the record states, “are called to the degree of the utter barre they subscribing the engagement.”<sup>7</sup> This test is not again referred to in the Minutes of the Inn, but at the Inner Temple, on February 4th, 1650, when twelve gentlemen on call to the Bar took the engagement, a general order was passed directing it to be taken publicly in Hall at dinner-time at the end of the Bench table, and enacting that the call of any one refusing so to take it should be utterly void.<sup>8</sup>

Under the Act of January 2nd, 1649, very serious con-

<sup>1</sup> A.P. III, 124.

<sup>2</sup> *Ibid.* 74.

<sup>3</sup> *Ibid.* 91.

<sup>4</sup> January 30th, 1648/9.

<sup>5</sup> Acts and Ordinances of the Interregnum, II, 1 : Whitlocke's Memorials, 424.

<sup>6</sup> Acts and Ordinances Interreg. II, 325.

<sup>7</sup> B. 359.

<sup>8</sup> A.P. III, 74, 75.

sequences followed a failure to take this test, for no man so defaulting could be a plaintiff in any proceeding in any Court, and a plea by a defendant that the plaintiff had not subscribed the "Engagement" was a complete answer to any action or suit. This test, however, was never popular, and Cromwell, as Lord Protector, on January 19th, 1653, finally repealed and annulled it as a burthen and snare to tender consciences.<sup>1</sup> At the Restoration the earlier enactments imposing the oaths of allegiance and supremacy again came into operation.

In one respect the Parliament dealt tenderly with the lawyers, for in the Ordinances repeatedly made for the "impresting of men" for military service in defence of the popular cause, "the schollers and students of the Innes of Court or Chancery or Houses of Law" were always expressly exempted from such service. A privilege which they shared with the Universities.<sup>2</sup>

In another matter an attempt was made to differentiate between the Universities and the Inns of Court to the disadvantage of the Temple Societies. This was the tax imposed for the support of the Commonwealth Army, in respect of which the Commissioners for the City of London assessed the Inner and the Middle Temple at £100 each per month. In February, 1653, the Inns petitioned Cromwell against this assessment, alleging that, though ancient Societies, they had at all times past

"been free (like other colledges and societyes of learning) from any publique tax or ymposicon; they indeed consisting either of young gentlemen (students of the lawe) who live upon exhibition of their parents, or of the elder sort practizers or publique officers in Courts of Justice who all of them are rated for their estates in the Countreyes where they live and have (in the Inns of Court) only chambers for the resort of their clyentes in Tearme time."

Cromwell referred this petition to a Committee of his Council, who made a strong report against the assessment as a thing never attempted before by Parliament or any other authority.

<sup>1</sup> Acts and Ord. Interreg. II, 830; Gardiner's Commonwealth, II, 316.

<sup>2</sup> See Acts and Ord. Interreg. I, 246 (August 10th, 1643); 475 (July 12th, 1644); 650 (February 28th, 1644); 690 (June 5th, 1645); 694 (June 10th, 1645); 822 (January 19th, 1646); 1139 (May 18th, 1648); II, 514 (April 18th, 1651), for service in Ireland.

They also stated that the Inns had no revenues ; that Lincoln's Inn and Gray's Inn had not been assessed ; that the study of Law ought to be encouraged like that of other arts and sciences, and that the Temple should be immune from taxation as the Universities were. Further, they alleged that the Temple was not within any City Ward, and therefore not liable to bear any part of a charge imposed upon the City. The Lord Protector's decision was as follows :

" Wee finding the said imposicon to be without presedent or example of any former tymes or practized by any other Commissioners in other places where other Societies of Innes of Court have their residence and conceaving the same to be unduly imposed do (as well for the reasons in the said petition alleaged as for divers other reasons us moving) declare that the said Societies ought not to be taxed by the said Commissioners and do therefore order that the said imposicion shalbe discharged." <sup>1</sup>

The trouble of the Societies in this matter was not, however, at an end, for on December 23rd, 1656, the question was raised anew in Parliament on a Report from the Committee for arrears of the Assessment of the City of London, who, being divided in opinion, invited the decision of the House. The Diary of Thomas Burton, at this time member for Westmorland, contains an account of the debate on this occasion, and gives the names of the speakers.<sup>2</sup> From these it appears that in the enlightened days of the Protector a seat in Parliament was not considered inconsistent with the holding of Judicial Office, Lord Chief Justice Glynn, Lords Commissioners Whitelocke and Fiennes, and Mr. Baron Parker, all being members of the House and championing the cause of the Temple ; which, after an animated discussion, finally prevailed.

On February 4th, 1658, a former rule <sup>3</sup> was re-enacted at the Middle Temple with reference to the conduct of debates in parliament as follows :

" That henceforth the ancyent manner of debating matters in parliament be revived and that none having voyce in parlia-

<sup>1</sup> I.T.R. II, 370-372.

<sup>2</sup> Diary, I, 209-214.

<sup>3</sup> For former order as to this of April 19th, 1616, see *ante*, pp. 296, 297.

ment doe speake above once in one matter at one parliament uppon payne that if hee doe otherwise or reply or question or speake openly in the same matter he forfeite and loose his suffrage in every other cause during that whole parliament except in case he be required by the major parte of the Masters of the Bench to explain hymself concerning any matter by hym then spoken And that if any shall maintayne any over longe discourse that he cease uppon silence required by the Treasurer And that the Treasurer propose all matters to debate and he only to put the question And that such as purpose to have any matter debated in parliament doe deliver the same beforehand to the Treasurer and he to propose the same publicquely And that this Act be read by the Treasurer at the beginning of every parliament; which said order being presented and distinctly read by the Treasurer to the Masters of the Bench now assembled in parliament uppon due consideration theyr Master-shippes did unanimously approve of the discretion and prudence thereof as much tending to the expeditinge of all matters in parliament And doe therefore order the same in all particulars thereof to be duely observed for the future With this addition that Master Treasurer doe require all animositie and passion to be forborne in the debates in parliament.”<sup>1</sup>

On February 3rd, 1659, the following order was made with reference to the Treasurer's Accounts :

“Henceforth at the auditing of any Treasurer's accompt the succeeding Treasurer shall be desired to be present, that if exception be taken to any of the particulars he may bee acquainted therewith and the better know what is fitt to bee done by him in his yeare. And their Master-shippes doe further order that a Booke bee forthwith provided wherein the said accompt and the accompts of all other succeeding Treasurers shall bee fairly entered the next terme after the same shall bee allowed in parliament And the Treasurer for the time being to take care that the said accompt bee duely entered And if any particulars in the said accompt bee disallowed by order of

<sup>1</sup> E. 3.



parliament that such disallowance be entered upon the margent of the booke over against such particulars And the Under Treasurer is to be allowed 10/- a yeare for the doing thereof." <sup>1</sup>

The Under Treasurer of the Middle Temple was now Master James Buck, for William Jones, Mr. Bayliffe's successor, had been obliged to resign the office in November, 1658, on account of ill health. Like Jones, Buck was a member of the Society. He was destined to hold the office for the long period of fifty-three years. Appointed February 9th, 1658, he had been required to give security by a recognizance for £1000 and two surety bonds of £250 each. The use of the old parliament chamber had been granted him so long as the Lord Keepers of the Great Seal occupied the chamber properly belonging to his office, and also a study under the hall stairs for keeping his books.<sup>2</sup> The large security required of him points to the increasing importance and responsibility of his office. He at once justified his election by the vigour with which he discharged his duties as appears from a Minute of November 4th, 1659 :

" Their Mastershippes taking notice of the faithfulness and diligence of the now under Treasurer in many extraordinarie services by him done for the good and benefit of the Society more than ever was performed by any sub-Treasurer before him doe declare themselves to bee wellpleased therewith and that at their next parliament they will consider of his paines in making soe exact a survey of the whole House and summing up the duties of gentlemen having chambers and in arreares upon the rolls of the House." <sup>3</sup>

A fortnight later a special remuneration of £20 was allowed Master Buck for this work.<sup>4</sup>

Hitherto the Middle Temple Library, founded by the bequest of Mr. Robert Ashley, had been of little use to the members of the Inn owing to the books, through lack of proper accommodation, being stored in closed cupboards. To remedy this an order was passed in May, 1650, directing the chambers of Master Eltonhead (now a Serjeant-at-Law) to be fitted up and prepared

<sup>1</sup> E. 20. This book of Entries of the Treasurers' Accounts extends from 1658 to 1727.

<sup>2</sup> E. 4.

<sup>3</sup> E. 18.

<sup>4</sup> *Ibid.*

for use as a library for the orderly placing of Mr. Ashley's books therein.<sup>1</sup> From a later Minute of the following October it appears that these chambers were over the kitchen, and when converted to the intended use, were not to be held or enjoyed henceforth by any private person or for any private use.<sup>2</sup>

In July, 1652, the Society received a gift of £100 from Mr. Charles Cocks, one of its members, to be expended in buying books for the library;<sup>3</sup> and in November of the same year four members were deputed "to draw up some rules and instructions for the improving and regulating the Librarie."<sup>4</sup> Next, on February 11th certain monies directed to be collected on the Steward's rolls were ordered to be employed and disbursed for the benefit and advantage of the Library, the whole body of the law being in the first place taken care for and provided.<sup>5</sup> Pursuant to this order, on July 13th, 1653, a sum of £49 6s. 7d. was expended upon law books.<sup>6</sup>

A pathetic note is struck by an entry of November 25th in this year. Mr. Cox, the original keeper of the books, was still in charge of them, though infirm and well stricken in years. It was winter-time, and he petitioned that, in regard of his age and weakness of body, he might have a fire allowed him in the library, and also one that might constantly look to the sweeping and cleansing of the same.<sup>7</sup> The Minutes leave it in doubt whether the Benchers acceded to this reasonable request, for they merely record that it was referred to the incoming Treasurer to do therein as he should see meet. If not, a benefit at least accrued to Mr. Cox's successor, for eighteen months later, when a new keeper of the books was appointed, it was ordered that "the sweeper of the parliament roome and the other by it is to sweepe and keepe cleane the library and books."<sup>8</sup>

The new librarian was Mr. Thomas Manley, also a member of the House. He received the same salary as Mr. Cox, £20 a year paid quarterly, and was allotted a chamber in proximity to the library for his "more neare and better attendance there-upon." He was required to give such security as the Treasurer should approve "for his just and carefull and safe keepinge the books and discharge of the employment and trust," and his hours of attendance were fixed as follows: In summer, 9 to 11 in the morning, 5 to 6 in the afternoon; and in winter, 8 to 11 morning, 2 to 5 afternoon.<sup>9</sup>

Mr. Manley proved an unfortunate selection. He failed to

<sup>1</sup> B. 361.

<sup>2</sup> B. 368.

<sup>3</sup> B. 394.

<sup>4</sup> B. 398.

<sup>5</sup> B. 403.

<sup>6</sup> M.T. Cal. 163.

<sup>7</sup> B. 414.

<sup>8</sup> B. 443.

<sup>9</sup> *Ibid.*

attend during the prescribed hours, and was soon dismissed to make way for a successor.<sup>1</sup> On June 12th, 1657, a book of parchment leaves was directed to be provided "handsomely bound to register the names and gifts of all benefactors."<sup>2</sup> The Benchers also ordered for the library about this time a portrait of the founder, for on May 9th, 1656, £1 was paid to Thomas Leigh, in addition to £10 already received by him, for drawing Mr. Ashley's picture in the library. This picture, though removed from the library, is still in the possession of the Inn.<sup>3</sup>

In 1657 a further gift of £50 was received for the purchase of books from Sir Richard Pepys, Chief Justice of Ireland, and on May 21st, 1658, it is minuted :

"The Lord Pepys is to have thanks and a catalogue sente him of the books he bestowed on the Library and their Master-ships thinke fitt as of grace to call his kinsman Mr. Joh. Wither to the degree of the Utter Barr who hath done some Exercises."<sup>4</sup>

These books, selected by a special Committee, are entered in the *Liber Benefactorum* with the cost of each.<sup>5</sup> They number fifty works, ranging in price from £8 10s. to 2s. More than half are in Latin, including Augustini Opera, the most expensive purchase. On June 18th, 1658, a further benefaction is recorded, viz. a gift of books from Mr. Baron Nicholas of the Court of Exchequer.<sup>6</sup> But these have not been entered in the *Liber Benefactorum*. This is the date on which the appointment of Mr. Manley's successor is recorded as follows :

"Mr. James Fitzgerald a member of this Society is chosen and confirmed in the roome and place of Mr. Manley Library Keeper of this Society who is to have the chamber next the rooffe over the Library now in the possession of Mr. Manley together with the fees Mr. Manley had during his continuance in the said office of Library Keeper."<sup>7</sup>

<sup>1</sup> B. 466.

<sup>2</sup> B. 475. The only book of this kind now existing is the *Liber Benefactorum*. It dates from 1700, and was the gift of Sir Bartholomew Shower, Kt. It contains entries copied evidently from an earlier book.

<sup>3</sup> See Pearce, *Inns of Court* (1855), 307. It is inscribed "*Robertus Ashley hujus Bibliothecæ Fundator 1641.*"

<sup>4</sup> B. 485, 488.

<sup>5</sup> B. 490.

<sup>6</sup> See pp. 2, 3.

<sup>7</sup> *Ibid.*

This gentleman, the fifth son of Garrard Fitzgerald, Archdeacon of Emley, Tipperary, had joined the Society on June 8th, 1657.<sup>1</sup>

Unfortunately, the Society was compelled to refuse one offer of books and MSS. during the Interregnum, which, if accepted, would have immensely increased the value of their collection. This was the "incomparable library" of the distinguished John Selden. More must be said hereafter of this accomplished scholar, the pride of the Inner Temple. He had died on the last day of November, 1654, expressing the wish in a codicil to his will (dated June 11th, 1653) that his MSS. and books should not be put to any common sale, but disposed of for some public use in some convenient public library, or that of some College in one of the Universities.<sup>2</sup> Selden's executors, two of whom were Matthew Hale and John Vaughan (both subsequently raised to the office of Chief Justice), first offered the collection to his own Society, the Inner Temple. But being unable to provide the necessary accommodation, they were constrained to decline the gift.<sup>3</sup> The Executors next approached Lincoln's Inn, where the Benchers, in July, 1655, passed a resolution to raise a sum of £2000 to house the collection. Finding, however, that this could not be done, they abandoned the attempt in the following November.<sup>4</sup> Selden's library was then offered to the Middle Temple Society, who in February, 1655, appointed their Treasurer (Sir Peter Ball) and six other members of the Inn

"to treat with the Executors touchinge the haveinge the said library and of the termes and all circumstances incident thereunto and of buildinge a place for them and to gett the best accompt they cann what the Bookes are."<sup>5</sup>

But here also, upon debate, the accommodation required was found to be more extensive than the House could afford to provide, and on November 31st, 1656, the gift was again declined.<sup>6</sup> Thus Selden's unique collection of books and MSS. was lost to the Temple, and found its final resting-place in the Bodleian Library at Oxford. On this *dénouement* the facetious Thomas Fuller, in his notice of

<sup>1</sup> B. 475.

<sup>2</sup> Selden's Works (Wilkins), I, p. lv.

<sup>3</sup> A.P. III, 99; I.T.R. II, Intro. cxix.

<sup>4</sup> Black Bks. II, 408-410.

<sup>5</sup> B. 455.

<sup>6</sup> B. 468.



Selden, among the Worthies of Sussex, makes the following comment :

“ The large library which he left is a jewel indeed and this jewel long looked to be put into a new cabinet when one of the Inns of Court should be pleased to provide a fair and firm fabric to receive it, but now is repositied (Bodly within a Bodly) in the matchless Library of Oxford.” <sup>1</sup>

Many of the books are said to have been lost through being lent and not returned, while the executors were seeking to find a home for them. Those which eventually reached Oxford numbered about 8000 volumes. Most of them bore Selden's favourite motto, “ Περὶ παντος την ελευθεριαν.” The University expended £25 10s. on chains to secure the books, the executors having stipulated this should be done. Rich in Classics, Science, Theology, Law, and Hebrew Literature, Selden's books included one volume indicative of the wide range of his interests and “ priceless in the eyes of the lovers of Old English black letter Tracts ” which contained twenty-six tracts, some of them the rarest of early popular tales and romances.<sup>2</sup>

In February, 1652, the annual wages paid to some of the servants of the Middle Temple Society had been considered by the Bench and some small increase of remuneration allowed.<sup>3</sup> This, however, failed to satisfy the servants' demands, and on November 21st, 1656, the four last Treasurers of the Inn were desired to consider the wages and other benefits which were received by each particular servant and officer of the House and, where they found “ their entertainment ” too little, to propose such an addition and increase as might be honourable for the Society and comfortable for the servants to live on, without the frequent petitioning for supply which had lately been used.<sup>4</sup> The Treasurer's deliberations resulted two years later in a considerable increase in the wages hitherto paid. The new scale, which was to continue in force during the pleasure

<sup>1</sup> Worthies, 111.

<sup>2</sup> Macray's Annals of the Bodleian Library (Edit. 1890), 121-123. One of the Selden MSS. would have delighted Dr. Johnson. It contained a description of Scotland accompanied by a curious map on which next to the counties of Sutherland and Caithness was placed “ Styx the infernal flode ” and “ the palais of Pluto King of hel, neighbore to Scottz ” : *ibid.* 123.

<sup>3</sup> B. 388.

<sup>4</sup> B. 468.

of the Bench and until the servants should have greater casual profits, was as follows : <sup>1</sup>

	£	s.	d.
Mr. Chapman Chief Butler . . . . .	20	0	0
Mr. Smith Chief Cook . . . . .	13	6	0
Mr. Bucknall second Butler . . . . .	12	0	0
Mr. Gales third Butler . . . . .	6	0	0
Mr. Chaloner fourth Butler . . . . .	6	0	0
Mr. Taylor Chief Washpot . . . . .	7	0	0
Mr. Best The Porter . . . . .	15	10	0
Mr. Burford Panierman . . . . .	5	0	0
Mr. Best the Turnbroach . . . . .	5	0	0
Edmund Ball Under wash-pot . . . . .	3	0	0
Eliz. Ball scullion or dishwasher . . . . .	3	0	0

The rise in wages which these figures indicate is seen by comparing them with the wages formerly paid. In 1638 the Chief Butler and the Chief Cook received each £3 6s. 8*d.*, a sum which in the case of the Chief Butler had been raised in 1652 to £6 13s. 4*d.*<sup>2</sup> The under Butlers in 1638 received £1 each, the Porter £5 10s., and the Turnbroach £1 6s. 8*d.* In 1652 the second Butler had been raised to £8, and the third and fourth to £3 each. The Turnbroach had then been advanced to £2 13s. 4*d.* The Panierman had benefited least, his wage in 1638 being £3 6s. 8*d.* and £4 in 1652. The Gardener and the Laundress are not mentioned in the above list of wages. The Gardener received £6 13s. 4*d.* in 1638. At a later date than the time of this scale his wage appears as £16, and in October, 1691, it was increased to £18 10s.<sup>3</sup>

It might have been supposed that under the Commonwealth, with the Puritan Party in power, no countenance would have been given to the revival of revels in the Middle Temple ; and certainly the Minutes of the Benchers contain no reference to any keeping of Christmas during the seventeen years between November 25th, 1642, and November 18th, 1659.<sup>4</sup> But there are other sources of information which tell a different tale. The accounts of the Inn show revels in full swing in 1651,<sup>5</sup> when a debt was incurred for " torches, staves and candles for revels " ;<sup>6</sup> and in the

<sup>1</sup> B. 495.

<sup>2</sup> For the 1652 scale of wages see B. 2, fo. 388.

<sup>3</sup> E. 385.

<sup>4</sup> B. 273 ; E. 19.

<sup>5</sup> The Benchers on November 21st authorized the continuance of Commons this year during the ensuing vacation with a direction that the Moots and usual exercises should be observed : B. 383.

<sup>6</sup> M.T. Cal. 162.

following year there is a similar entry for "revels, candles, Marshal's staff and white wands."<sup>1</sup> There is clear evidence, too, that dancing was not only permitted but encouraged, for on February 27th, 1654, no less a sum than £20 is entered "for dancers and others, gratuity for instructing the gentlemen and for occasions of the House of that nature."<sup>2</sup> Again, in November, 1655, occurs this item, "Music in the Hall six nights at 20/- a night, solemn revels Michaelmas term, staves, candles &c.,"<sup>3</sup> which is followed in February by "Music in the Hall two nights £3" and "Hilary term Revels candles, six torches, Marshal's staffs £19 6 0."<sup>4</sup> On November 29th, 1656, £4 was paid for music for four nights,<sup>5</sup> and £3 for three nights in the following February.<sup>6</sup> To items of this kind occurring in the three following years are added payments for acting a play called the Countryman or Clown twice a year, *i.e.* in November or December and February.<sup>7</sup>

More detailed information in regard to the first of the occasions mentioned above comes from a contemporary news sheet entitled "Perfect Passages of Every Daies intelligence from the Parliaments Army under the command of his Excellency the Lord Genl. Cromwel,"<sup>8</sup> which, under the date Thursday, December 4th [1651], sets out the following statement :

"On Saturday night last there was a masque at the Middle Temple London ; before it began the Benchers or ancients of the house were in the Hall and singing the hundred Psalm, which being ended every man drank a cup of Hipocras, and so departed to their Chambers, then the young Gentlemen of that Society began to recreate themselves with civil danceings and melodious musick many ladyes and persons of quality were present."

The Treasurer at this time was Robert Reynolds, Solicitor-General of the Commonwealth, so these festivities may almost be said to have been held under government patronage.

One other special occasion during this period may be noticed when the entertainment was graced by the presence of the Lords Commissioners of the Great Seal, Nathaniel Fiennes and John Lisle. Indeed, from an entry in the published Accounts

<sup>1</sup> M.T. Cal. 163.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.* 164.

<sup>4</sup> *Ibid.* 165.

<sup>5</sup> *Ibid.* 167.

<sup>6</sup> *Ibid.* 168.

<sup>7</sup> *Ibid.* 166, 167.

<sup>8</sup> No. 43 ; Brit. Mus. E. 791, 20.

it appears that it was given by their order.<sup>1</sup> This function, which took place on December 18th, 1655, was in celebration of the anniversary of Cromwell's assumption of the office of Lord Protector. Trumpets were sounded in the Hall, and other music provided in honour of the occasion, but the chief performer was Payne Fisher, a mercenary poetaster, originally a royalist officer, who twice turned his coat during these times of trouble. He recited Latin verses of his own composing,<sup>2</sup> and delivered an oration in praise of the victorious Oliver, whom when dead he afterwards found it more convenient to describe as "his Infernal Highness."<sup>3</sup> Simon Beale, the State Trumpeter, seems to have been employed to do the trumpeting, for his signature acknowledges a payment in the Accounts of £2 10s. for "attendance and sounding the trumpets before the Lords' Commissioners at the oration in the Hall."<sup>4</sup>

Cromwell, though the chief of a Republic, maintained the state of a great Prince, and in the Temple during his rule the pomp and vanity of Heraldry were not discarded, as appears by the following entry in the Accounts of the Middle Temple Society: "25th Novr. 1656 Herald painting eleven coates of arms in the generall booke of the House, two shields in parliament chamber and writing scrowles on the seeling £2 6 8."<sup>5</sup>

As has been already mentioned, the Inner Temple Society were more faithful to the traditions of Grand Christmas than the Middle Inn, and even under the Commonwealth appointments were there made to the time-honoured offices of Marshal, Steward, and Butler for that celebration; at least during the six years from 1650 to 1656.<sup>6</sup> Though annual appointments the same persons, after the custom of the House, were usually

<sup>1</sup> M.T. Cal. 164. In the preceding June Whitelocke and Widdrington had ceased to hold office, hence Colonel Nathaniel Fiennes and John Lisle were the sole Commissioners at this time.

<sup>2</sup> A volume of Payne Fisher's compositions including these verses and the oration is in the M.T. Library. Originally presented to Edmund Prideaux, Attorney-General of the Commonwealth, this book contains (*i.a.*) an engraved portrait of Bulstrode Whitelocke.

<sup>3</sup> For the good name of the Temple it is well to mention that Payne Fisher was not a member of either Society. He deserted the royal cause at Marston Moor, and became Poet Laureate to Cromwell, thereafter devoting his poetic talent to composing extravagant eulogies upon him and his officers. At the Restoration he again appeared as an ardent royalist, and lavished similar praises on Charles II. But it did not serve his purpose, and poverty was his ultimate reward: see D.N.B. XIX, 69.

<sup>4</sup> M.T. Cal. p. 165. Incorrectly printed "Timon." This official is mentioned by Pepys in his Diary, December 16th, 1660.

<sup>5</sup> M.T. Cal. 165.

<sup>6</sup> A.P. III, 71, 80, 85, 90, 95, 102, 103.



reappointed several years. The officers at this time chosen constituted a formidable galaxy of knighthood. Thus for 1654 and 1655 the following names appear: Office of Marshal, Sir Thomas Littleton, Sir Thomas Barnardiston, and Sir Thomas Trevor; Office of Steward, Sir Edward Littleton, Sir William Walter, and Charles Cockayne (later first Viscount Cockayne); Office of Butler, Sir James Pitt, Sir Bainham Throgmorton, and Thomas Hanchett.<sup>1</sup> The Accounts show entries for music, for which, from 1654 to 1659, an annual fee was paid. Revels are also mentioned, and on November 5th, 1657, the Countryman and Clown was acted at the Inner Temple.<sup>2</sup> One item in the Treasurer's Account for the year 1653-4 is thus entered, "to the Porter to make a fire when Generall Cromwell was sworne Lo. Protector."<sup>3</sup>

Some of the members of the Inner Temple, also, held important judicial offices under the Commonwealth, and in the Accounts (1654/5) a sum of £3 occurs paid to Andrew Hall, the glass painter, for the arms of Lord Chief Justice Rolle, Lord Chief Baron Wyld, and Mr. Justice Aske.<sup>4</sup> These coats were evidently depicted in some window; but as Sir William Dugdale makes no reference to them in his *Origines Juridicales* (published 1666), they seem to have been removed after the Restoration.<sup>5</sup> That such a memorial of Mr. Justice Aske should have been offensive to royalist feelings is not at all surprising, seeing that he so actively assisted in framing the charges against the King, that opposite his name in the burial register of the church has been written, "Cheife of Councell at the murdering of King Charles the First."<sup>6</sup> Indeed, the Inner Temple Society played no small part in the condemnation of the King. Ten of the persons who signed the death warrant have been identified by Mr. Inderwick as members of the Inn, viz. Thomas Challoner, Simon Mayne, William Cawley, Edmund Ludlow, Henry Martin, Daniel Blagrove, John Carew, Anthony Stapley, John Downes, and Sir William Constable. Of these regicides only Cawley, Blagrove, and Downes were called to the Bar. Further, Andrew Broughton, the clerk of the Court who read the indictment, called on the King to plead to it, and finally read the sentence pronounced upon his Majesty,

<sup>1</sup> A.P. III, 95, 102, 103.

<sup>2</sup> Gen. Acct. Bk. II, 5, 32, 47, 54.

<sup>3</sup> *Ibid.* 11.

<sup>4</sup> *Ibid.* 32.

<sup>5</sup> The arms of Chief Justice Rolle are now displayed, however, in the bay window of the new hall.

<sup>6</sup> Temple Church Burial Register (1905), 11; also Whitelocke's Memorials, 368.

was elected an Associate of the Bar at the Inner Temple on May 15th, 1650, and an Associate of the Bench on June 17th in the following year.<sup>1</sup> Only one of these regicides, John Carew, who is said to have died bravely, was executed at the Restoration. The others then surviving, with less courage but more prudence, took flight to the Continent, and thus saved their lives.

The Middle Temple was also represented on the Court appointed for the trial of the King. Four members of that House likewise signed the warrant for his execution. Three of these, Richard Ingoldsbye,<sup>2</sup> Henry Ireton,<sup>3</sup> and Adrian Scrope,<sup>4</sup> only appear in the Records of the Society in the year of their admission. They were never called to the Bar, and do not seem to have studied in the Inn. Ireton, a fanatical republican, who married one of Cromwell's daughters, and as Lord Deputy ruled Ireland with great severity, died there in 1651.<sup>5</sup> Ingoldsbye, by energetically supporting the Restoration,<sup>6</sup> not only won forgiveness from Charles II, but was made a Knight of the Bath at his coronation.<sup>7</sup> Adrian Scrope, a descendant of the ancient family of the Scropes of Bolton in Yorkshire, was less fortunate. Making no attempt to escape, he surrendered on the King's proclamation at the Restoration, was given the benefit of the Act of Indemnity by the Commons for a fine, and released on parole. The Lords, however, insisted on his prosecution as a regicide, and as the other House eventually concurred, he was tried, convicted, and executed. According to a contemporary account, he died with courage and even cheerfulness.<sup>8</sup> The fourth regicide of the Middle Temple was William Say. He was the only one who followed Law as a profession. Admitted to the Inn August 15th, 1622,<sup>9</sup> he was called to the Bar on June 24th, 1631.<sup>10</sup> He entered Parliament for Camelford in 1647, was made a member of the Council of State in 1650, and in May, 1654, became a Bencher of the Inn.<sup>11</sup> On January 13th, 1659, in consequence of the illness of Speaker Lenthall, Say was elected Speaker of the House of Commons *pro tempore*, and occupied the chair for ten days.<sup>12</sup> At the Restoration he found safety in flight, and died abroad.<sup>13</sup>

At the commencement of the Civil War the Great Seal had been held as Lord Keeper by Edward, Lord Littleton of

<sup>1</sup> A.P. III, 33, 52, 69, 79, 84; I.T.R. II, Intro. ex, cxi; St. Trials, V, 1023.

<sup>2</sup> C. 11 (November 12th, 1610).

<sup>3</sup> B. 38 (November 24th, 1629).

<sup>4</sup> C. 154 (February 8th, 1619).

<sup>5</sup> D.N.B. XXIX, 37-43.

<sup>6</sup> *Ibid.* 9.

<sup>7</sup> Shaw, I, 166 (April 23rd, 1661).

<sup>8</sup> D.N.B. LI, 132.

<sup>9</sup> C. 177.

<sup>10</sup> B. 71.

<sup>11</sup> B. 421.

<sup>12</sup> Com. Journ. VII, 811.

<sup>13</sup> See, generally, D.N.B. L, 389.

the Inner Temple, a lineal descendant of the author of the famous book on Tenures. He had joined the Inn, with which his family had been so long connected, on October 23rd, 1609, from Christ Church, Oxford, and was called to the Bar on May 11th, 1617.<sup>1</sup> Possessing ability of a high order and being an industrious student, his progress was rapid. Called to the Bench in November, 1629, Recorder of London, December, 1631, and Reader, 1632, he was Solicitor-General and Treasurer of the Inn in 1634.<sup>2</sup> In 1640 he was appointed Chief Justice of the Common Pleas and Lord Keeper in 1641, a position for which his ability and wide experience in practice might have been supposed to have eminently fitted him.<sup>3</sup> But in this office his conduct was characterized by a perplexity and irresolution, says Lord Clarendon, which forfeited the respect in which he had formerly been held.<sup>4</sup> Confronted by the conflicting claims of Crown and Parliament, he seems for a time to have run with the hare and hunted with the hounds, which secured him the favour of neither party, and when at length he took his decision and followed the King to York, he had effectually lost the royal confidence. No Lord Keeper was appointed by the Parliament, the popular leaders preferring to put the Great Seal in Commission, by which its keeping was eventually transferred to the Middle Temple. But in the legal life of the Commonwealth both Temple Inns played a conspicuous part. The death of the King on January 30th, 1648, was followed by important legal changes. The name of the principal Court at Westminster was changed from King's Bench to Upper Bench. All the Judges had refused to take any part in the King's trial, but most of them accepted reappointment by the Parliament, their tenure of office being *quamdiu se bene gesserint*, and the oath they took varied from the King's name to that of the people.<sup>5</sup> The proclamation of England as a Commonwealth in the following May<sup>6</sup> necessitated a change in the Great Seal, and by order of Parliament a new seal was made, bearing upon one side the arms of England and Ireland, with the words "The Great Seal of England," and on the other a representation of the House of Commons in session, surrounded by the legend, "In the first year of freedom by God's blessing restored 1648."<sup>7</sup> In

<sup>1</sup> Admissions Bk. 364 ; A.P. II, 124.

<sup>2</sup> A.P. II, 184, 196, 220.

<sup>3</sup> Foss, VI, 346.

<sup>4</sup> Hist. II, 498, 499.

<sup>5</sup> Whitelocke's Memorials, 378.

<sup>6</sup> May 19th, 1649 ; see Acts and Ord. Interregnum, II, 122.

<sup>7</sup> Memorials, 377, 378 ; Clarendon, Hist. (1826), VI, 247.

February new Commissioners were chosen to have the custody of the Seal, and installed in office by the House of Commons. Bulstrode Whitelocke and John Lisle (both of the Middle Temple) and Richard Keeble of Gray's Inn were the new Commissioners. Whitelocke has left an account of the ceremony in his Memorials.

"The title," he says, "held some debate whether we should be styled 'Commissioners' or 'Lords Commissioners,' and though the word 'Lords' was less acceptable at this time, than formerly, yet that they might not seem to lessen their own authority nor the honour of their officers constituted by them, they voted the title to be Lords Commissioners."

Serjeant Keeble, who was not a member of the House, was then sent for, and the three proceeding to the table (Whitelocke as first Commissioner in the centre) received the Seal from the Speaker after respectively taking the oath to well and truly execute their office.<sup>1</sup> From this time the Middle Temple became the headquarters of the Chancery during the Interregnum, and Bulstrode Whitelocke as first Commissioner the dominant figure of the legal world.

Carefully trained by his eminent father, Sir James Whitelocke (whose Reading in 1619 has been already described), Bulstrode Whitelocke, after some years' residence at St. John's College, Oxford (where his father's friend Laud was then President), was admitted on June 30th, 1620, to a chamber in the Middle Temple,<sup>2</sup> and there became, says Anthony Wood, "a noted proficient in the Common Law, well read also in other studies, and in time made for himself a large provision." He was elected to the Long Parliament as member for Marlow, and by "showing himself very active in baiting the most noble Thomas Earl of Strafford," again, says the same authority, "became noted as a man of parts."<sup>3</sup> The baiting, however, was honourably done, so far as Whitelocke was concerned, for the Earl himself has testified that, as one of the managers of the impeachment, Bulstrode Whitelocke used him like a gentleman;<sup>4</sup> and there is a fine generosity about the tribute which Whitelocke subsequently paid to the demeanour of the accused during the ordeal of that trial in Westminster Hall:

<sup>1</sup> Memorials, 379-380.

<sup>3</sup> *Athenæ Oxon.* III, 1042.

<sup>2</sup> C. 162.

<sup>4</sup> Whitelocke's Memorials, 43.



"Certainly never any man acted such a part on such a theatre, with more wisdom, constancy and eloquence, with greater reason, judgment and temper, and with a better grace in all his words and gestures, than this great and excellent person did; and he moved the hearts of all his auditors (some few excepted) to remorse and pity."<sup>1</sup>

Whitelocke's position as first Commissioner of the Great Seal, however, does not seem to have given him much satisfaction. He states that the style of Lords Commissioners moved by Mr. Prideaux for the honour of the place, so increased his expenses that he spent in the office more than he gained.<sup>2</sup> Further, being hampered by inefficient colleagues, he found the conduct of business in the Court of Chancery full of difficulties. Under the date February 13th, 1648, there is the following entry in his Memorials: "The burthen of the Chancery business lay heavy upon me being ancient (senior) in commission and my brother Keeble of little experience in practice, my brother Lisle of less, but very opinionative."<sup>3</sup> Four years later he was still complaining, this time of the suitors who appeared before him.

"The business of the Chancery was full of trouble this Michaelmas term, and no man's cause came to a determination how just soever, without the clamour of the party against whom judgment was given; they being stark blind in their own causes, and resolved not to be convinced by reason or law."<sup>4</sup>

He continued to act as Chief Commissioner until 1655, when, differences with Cromwell regarding changes the Lord Protector proposed to introduce in Chancery procedure, occasioned his enforced retirement for a time.<sup>5</sup>

Whitelocke declares he never regretted his decision in this matter, though the immediate consequences were not pleasant; for

"now my former pretended dear friends and frequent visitors withdrew themselves from me and began neither to own nor to know me; such is the course of dirty worldlings; but I valued not these loaf friends and hypocrites."<sup>6</sup>

<sup>1</sup> Whitelocke's Memorials, 44.

<sup>2</sup> *Ibid.* 393.

<sup>3</sup> *Ibid.* 381.

<sup>4</sup> November 7th, 1652; Memorials, 548.

<sup>5</sup> *Ibid.* 621-626; Acts and Ord. Interreg. II, 949-967.

<sup>6</sup> Memorials, 627. The new Commissioners were Colonel Nathaniel Fiennes

Cromwell, however, respected Whitelocke's honesty of purpose, and soon found other employment for him, sending him as Ambassador to Sweden. By Richard Cromwell he was twice reappointed to the office of Commissioner, and was sole Keeper of the Great Seal at the close of 1659. He ceased, however, to hold office some months before the Restoration, and withdrawing to his country residence in Wiltshire, was permitted to spend his closing years there undisturbed. Anthony Wood, who had no sympathy with his political opinions, admits that he was "an excellent common lawyer" "as well read in books as in men and well versed in the oriental tongues and therefore beloved of Selden and the virtuosi of his time."<sup>1</sup>

John Lisle, his colleague as Commissioner of the Great Seal and on the Bench of the Middle Temple, had a different end. The son of Sir William Lisle, Kt., of Wootton in the Isle of Wight, a gentleman descended from an ancient family, he none the less proved himself a virulent opponent of the King, taking a leading part in the management of his Majesty's trial and drawing up the sentence pronounced by Bradshaw. Subsequently an ardent supporter of Cromwell, to whom he administered the oath of office as Lord Protector, he was too deeply committed to hope for pardon at the Restoration, and accordingly sought refuge in Switzerland. There, treated with great respect, he lived in state (for he had profited much from the plunder of royalists) until August 11th, 1664, when he was shot by an Irishman, Thomas Macdonnell, who is said to have been enraged at seeing a regicide lording it with so much honour.<sup>2</sup>

In addition to the Commissioners of the Great Seal, the Middle Temple also numbered amongst its members the leader of the Equity Bar during the Interregnum. This was Challoner Chute, a Bencher and Treasurer of the Inn, and although not prominent in politics, a notable figure in his day, and at last Speaker of the House of Commons. Admitted to the Inn November 11th, 1613, he was called to the Bar on May 23rd, 1623. Before his turn came to be chosen Reader the Civil Commotions had disrupted the Collegiate life of the Temple. On October 31st, 1645, however, he was called to the Bench

and John Lisle who, while doing lip service to the Protector's ordinance, in fact never carried it out. "The one of them," says Whitelocke, "never had experience in matters of this nature; and the other as little in them till by accompanying us he gained some; and now he carries the business very high and superciliously": *Ibid.* 627.

<sup>1</sup> Athen. Oxon. III, 1043.

<sup>2</sup> See Foss, VI, 454; D.N.B. XXXIII, 341.

with a view to reading subsequently, one of the first Utter Barristers so elected.<sup>1</sup> His position in the profession was already one of distinction. In 1641 he had been retained to defend the Bishops prosecuted before the Lords for making canons, and when other counsel, intimidated by the threats of the Commons, did not dare to plead for the accused, Chute, with more courage, declared he would defend them as long as he had a tongue to plead with. He drew a demurrer which seems to have put an end to the proceedings, for they sank into oblivion and were heard of no more.<sup>2</sup> Chute showed a like intrepidity in the case of Sir Edward Herbert, the King's Attorney, whom the Commons impeached in 1642. Hearing that Counsel were retained for his defence, the Commons resolved that "whoever presumed to be of counsel with a person accused by the Commons of England should be taught better to know his duty and should have cause to repent it." This formidable intimation scared away the four leading Counsel (Sir Thos. Bedingfield, Sir Thos. Gardiner, and Serjeants Green and Pheasant), but left Chute and Hearne the two juniors undismayed.<sup>3</sup> He was also one of the Counsel who defended Archbishop Laud (1643), the eleven members of Parliament charged by the Army, and Sir Thos. Fairfax with obstructing the business of Ireland, and being actors against the laws and liberties of the subjects (1647), and James Duke of Hamilton,<sup>4</sup> executed in 1649. He was twice nominated by the Commons as a Commissioner of the Great Seal, but never actually held the office.<sup>5</sup> In November, 1655, he was elected Treasurer of the Middle Temple.<sup>6</sup> Though he only entered Parliament at the end of his career, he was chosen Speaker in January, 1659, despite his protest that his health was too impaired to sustain the fatigues of the chair; a protest justified in the result, for he soon broke down under the strain, and died in the following April. Bulstrode Whitelocke has paid tribute to his professional eminence,<sup>7</sup> but the most interesting light on his character and unique position at the Bar comes from Roger North, with whose family Chute was connected through his second marriage.

<sup>1</sup> C. 62; B. 285.

<sup>2</sup> Fuller's Church Hist. (1655), Bk. XI, 183.

<sup>3</sup> State Trials, IV, 127.

<sup>4</sup> Earl of Cambridge in the English Peerage.

<sup>5</sup> Whitelocke's Memorials, 77, 234, 240, 253, 258, 381.

<sup>6</sup> November 2nd, 1655; B. 447.

<sup>7</sup> Memorials, 677.

"This Mr. Chute," he writes, "was a man of great wit and stately carriage of himself; I shall mention here what I have been credibly told as one instance of his loftiness, even while he practised in Chancery, it was in short this: if he had a fancy not to have the fatigue of business, but to pass his time in pleasure after his own humour, he would say to his clerk, 'Tell the people, I will not practise this term'; and was as good as his word: and then no one durst come near him with business. But when his clerks signified he would take business, he was in the same advanced post at the Bar fully reintegrated as before, and his practice nothing shrunk by his discontinuance. I guess that no eminent chancery practiser ever did, or will do, the like; and it shows a transcendant genius superior to the slavery of a gainful profession."<sup>1</sup>

In his case, notwithstanding this casual mode of treating clients, the profession continued to be "gainful," for he died rich and the owner of the property of the Vine in Hampshire, which he had purchased from Lord Sandys in 1653.<sup>2</sup>

Of the members of the Inner House who played a conspicuous part in the legal life of the Interregnum, Edmund Prideaux, John Wilde, and Henry Rolle are deserving of special notice. Edmund Prideaux belonged to a Devonshire family. The second son of Sir Edmund Prideaux, a distinguished member of the Inner Temple, who was created a baronet by King James I in 1625, he joined the Society from Cambridge on May 12th, 1616, and was called to the Bar on November 23rd, 1623.<sup>3</sup> Attaching himself to the Court of Chancery, he rapidly acquired a considerable practice. Member for Lyme Regis in the Long Parliament, he joined the popular party. In May, 1642, he was called to the Bench of his Inn,<sup>4</sup> and on November 10th, 1643, chosen by Parliament one of the six Commissioners of the Great Seal, adopted in lieu of the seal carried off to the King by Lord Keeper Littleton.<sup>5</sup> On October 12th, 1648, he was appointed

<sup>1</sup> Lives of the Norths, I, 18.

<sup>2</sup> D.N.B. X, 348, 349.

<sup>3</sup> A.P. II, 120, 150; "Mr. Edmund Prideaux younger son of Edmund Prideaux Esq one of the Bench and dooble Reader of this house is specially admitted into the fellowship of the same at the request of his said Father *gratis*": see also Bk. of Admissions (1571-1640), 442.

<sup>4</sup> A.P. III, 34.

<sup>5</sup> Foss, VI, 348, 349.



by the Commons Solicitor-General,<sup>1</sup> but did not long retain the office, resigning it to avoid taking any part in the King's trial. This, however, did not prevent his subsequent preferment, for in April, 1649, he was appointed Attorney-General.<sup>2</sup> In the preceding November he had been elected Treasurer of the Inner Temple, and he continued to hold both offices till his death in August, 1659.<sup>3</sup> As Attorney-General he took part in most of the great trials of his time. But his Chancery experience does not seem to have fitted him for an advocate's work in other Courts, for he avoided personal appearances at the Bar, preferring to leave the conduct in Court of the Commonwealth cases to other hands. This duty, says Mr. Inderwick, he left to his deputies, the Serjeants and Counsel to the Commonwealth, seating himself upon the Bench. "Here he wore his hat and was the only person covered in Court except the Judges. Nor did he throw himself into the fray unless the cause of the Commonwealth required his assistance."<sup>4</sup> A steady supporter of the government of Oliver Cromwell, he signed the Proclamation of Richard as his father's successor. In addition to his professional emoluments, he is alleged to have made large sums out of the Postal services of the country, which Parliament placed under his control. His wealth enabled him to dispense a bountiful hospitality, and his great entertainments were a feature of the times.<sup>5</sup> Notwithstanding his lavish hospitality, he left a large fortune at his death. A stone bearing his initials as Treasurer, the Pegasus of the Inn, and the date 1657, has been preserved at the Inner Temple, and built into the wall of the staircase leading to the present library.

John Wilde was called to the Bar at the Inner Temple on January 29th, 1611. He was chosen a Bencher of the Inn in November, 1628. Two years later he was elected Autumn Reader, but sickness stopped the reading, and he was re-elected for the following Lent.<sup>6</sup> In 1620 he had entered the House of Commons as Member for Droitwich, and sat for the same place in subsequent Parliaments.<sup>7</sup> In 1636 he was created a Serjeant-at-Law.<sup>8</sup> Returned to the Long Parliament for the County of Worcester, he took an active part on the popular side. As one of the managers for the Commons in their impeachment of

<sup>1</sup> *Tabulæ Curiales*, 60.

<sup>2</sup> *A.P.* III, 59, 126.

<sup>3</sup> Whitelocke's *Memorials*: August 18th, 1649. "Mr. Attorney as was usual with him gave us great entertainment at dinner": p. 421.

<sup>4</sup> *A.P.* II, 97, 169, 186, 189.

<sup>5</sup> *D.N.B.* LXI, 226.

<sup>6</sup> *Ibid.* 63.

<sup>7</sup> *I.T.R.* II, cxxiv.

<sup>8</sup> *Foss*, VI, 230.

Laud (1644) he allowed his zeal to outrun his discretion, and the weakness of his arguments was not concealed by the violence of his language. At one stage of the proceedings he was neatly countered by Mr. Hearne,<sup>1</sup> one of the Counsel for the defence, who by objecting that no one of the charges preferred against his client amounted in Law to treason, drew from Wilde the reply :

“ Mr. Herne we did never allege that any one crime of the Bishop’s did amount to a Treason or a Felony ; but we do say that all the Bishop’s misdemeanours put together do by way of accumulation make many grand Treasons.” To which came the apt retort : “ I crave your mercy, good Mr. Sergeant ; I never understood before this time that two hundred couple of black rabbits would make a black horse.”<sup>2</sup>

Serjeant Wilde is said to have suggested the making of the new Great Seal ordered by the Parliament in 1643 to replace the Seal carried off to the King by Lord Keeper Littleton. He was appointed one of the six Commissioners to whom its keeping was first entrusted. This office he held for three years.<sup>3</sup> In 1646 he was employed by the Parliament as an Assize Judge at Gloucester, Hereford, and Monmouth, and was made Recorder of Worcester.<sup>4</sup> In October, 1649, he was appointed Chief Baron of the Exchequer, but was displaced by the advent to power of Oliver Cromwell, who gave the office to William Steele of Gray’s Inn.<sup>5</sup> This excluded Wilde from the judicial Bench till 1659, when the Parliament restored him to the post of Chief Baron.<sup>6</sup> With the Restoration he was again relegated to private life, and died nine years later. Very different estimates have been formed of his character as a Judge. In the notices of him by Clarendon and Anthony Wood (who were both naturally hostile to his political views), he appears as an evil judge prostituting justice for money, whereas Bulstrode Whitelocke, while entertaining no great opinion of his legal attainments, praises his industry and impartiality. The truth, perhaps, lies between those two extremes. Whitelocke may have judged him by his conduct at Westminster ; on circuit, more removed from critical observation, he may have behaved very differently.

<sup>1</sup> Whitelocke, Memorials, 77 ; State Trials, IV, 127.

<sup>2</sup> Howell’s State Trials, IV, 586.

<sup>3</sup> Whitelocke’s Memorials, 71.

<sup>4</sup> *Ibid.* 218.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.* 693.

Henry Rolle is a more attractive personality, and has won high praise from so unimpeachable an authority as Sir Matthew Hale. Like Edmund Prideaux, he was a Devonshire man. Admitted to the Inner Temple from Exeter College, Oxford, in February, 1608, he was called to the Bar on January 26th, 1616.<sup>1</sup> Early in Parliament, where he supported the impeachment of Buckingham, he was called to the Bench of the Inner Temple on November 3rd, 1633. In May, 1636, he was elected Reader, but owing to visitations of the Plague, did not read until Lent Term, 1638.<sup>2</sup> In 1640 he was raised to the rank of Serjeant,<sup>3</sup> and in October, 1645, on the nomination of Parliament, sworn a Justice of the King's Bench.<sup>4</sup> Three years later, by the same authority, he was promoted to the position of Chief Justice.<sup>5</sup> Like the other Judges, he took no part in the trial of King Charles, but, remaining in office after the King's death, was continued as Chief Justice in the newly created Court of Upper Bench.<sup>6</sup> He was also appointed a member of the Council of State. Disapproving of Cromwell's policy in the trial of delinquents, he resigned the Chief Justiceship in 1655, and died in the following year. Whitelocke describes him as a "wise and learned man." An assiduous student of the Common Law, he prepared for his own use reports of cases decided in the Court of King's Bench during the reign of James I, and an Abridgment, both published in Law French after his decease.

In an English Preface contributed to the Abridgment by Sir Matthew Hale, that eminent Judge paid a very high tribute to the author. It is too long for insertion here *in extenso*, but part may be quoted : <sup>7</sup>

"He was a man of very great natural abilities, of a ready and clear understanding, strong memory, sound deliberate and steddly judgment. . . . He had this happiness that from his first admission to the Society of the Inner Temple till his call to be a Serjeant he had contemporaries of the same Society of great parts learning and eminence ; as namely Sir Edward Littleton afterwards Chief Justice of the Common Pleas and Lord Keeper of the Great Seal of England ; Sir Edward Herbert afterwards Attorney General ; Sir Thomas Gardynier after-

<sup>1</sup> A.P. II, 123.

<sup>2</sup> *Ibid.* 210, 233, 236, 239, 241.

<sup>3</sup> Gen. Acct. Bk. I, 280 ; Foss, VI, 231.

<sup>4</sup> Whitelocke's Memorials, 178.

<sup>5</sup> *Ibid.* 342.

<sup>6</sup> *Ibid.* 384.

<sup>7</sup> Edit. 1668.

wards Recorder of London and that treasury of all kind of learning Mr. John Selden; with these he kept a long constant and familiar converse and acquaintance and thereby greatly improved both his own learning and theirs." On the Bench "he was a patient and observing hearer. . . . Great experience rendered business easie and familiar to him, so that he gave convenient despatch without precipitancy or surprise. In short, he was a person of great learning and experience in the Common Law, profound judgment, singular prudence great moderation, justice and integrity."

One name mentioned in this eulogium calls for further notice. Any account of the leading Temple lawyers of the Commonwealth period would be incomplete which did not include John Selden, "the glory of the English Nation as Hugo Grotius worthily styled him," says Anthony Wood;<sup>1</sup> and the bright particular star of the Inner Temple.

The son of a Sussex yeoman, though his mother came of a better family, Selden passed from Chichester Grammar School to Hart Hall, Oxford, where he matriculated October 24th, 1600, being then sixteen years of age. Two years later he entered Clifford's Inn, and on May 17th, 1604, was admitted a member of the Inner Temple;<sup>2</sup> where he was called to the Bar eight years later, on June 14th, 1612,<sup>3</sup> having already commenced his career as an author by publishing in 1610: (1) *Jani Anglorum Facies Altera*, an account in Latin of the laws of the Britons, Saxons, and Normans to the end of the reign of Henry II; (2) *England's Epinomis*, a similar treatise in English, including also the further period covered by the reigns of Richard I and King John; (3) the *Duello*, or single combat from antiquity, derived into this Kingdom of England, an inquiry into the origin of trial by battle. Passing over such minor matters as *Notes* by way of illustration to the first eighteen songs of Drayton's *Polyolbion* (1612) and verses in Greek, Latin, and English in praise of Britannia's Pastorals, by William Browne (1613), Selden next published, in September, 1614, his celebrated work on *Titles of Honour*, dedicated to "my most beloved friend and chamber fellow Mr. Edward Heyward," which has been described as a mine of erudition and learning

<sup>1</sup> *Athenæ Oxon.* (Bliss), 336.

<sup>2</sup> *Bk. of Admissions* (1571-1604), p. 307.

<sup>3</sup> *A.P.* II, 99.



and has not been surpassed by any subsequent work on this subject. From the Preface it appears that it had been mostly written some years earlier, "wanting only in some parts," he says, "my last hand, which was then prevented by my dangerous and tedious sickness." Thus, at the age of thirty, Selden stepped into the front rank of the legal antiquaries of his time.<sup>1</sup> In 1616 he issued his edition with notes of Sir John Fortescue's *De Laudibus Legum Angliæ*, to which he appended (printed for the first time) *Summæ Magna et Parva*, the practice manuals of Ralph de Hengham, a Chief Justice of the King's Bench in the reign of Edward I. In the following year came from his pen writings on such varied subjects as the Jews in England, the office of Lord Chancellor and the History of Tithes : the last named work being dedicated to his friend and patron, Sir Robert Cotton, the antiquary, the use of whose "inestimable library" he gracefully acknowledged. His History of Tithes brought upon him, however, the displeasure of the clergy, for it appeared to suggest that tithes, of which he carefully investigated the origin from Jewish times, were historically a human expedient and not of divine authority. He was summoned before the Court of High Commission and constrained to express his regret for having published the book, and given any occasion of argument against the divine authority of Ministers of the Gospel. The work was ordered to be suppressed. It brought its author, however, under the notice of King James, to whose pedantic mind the problem of tithes must have been highly alluring. He sent for Selden, and engaged him in learned discussions, in which no doubt the royal arguments were permitted to prevail. Three tracts included in Wilkin's edition of Selden's Works are said to have been written by him at the King's request, the subjects being —the number 666 in Revelation, Calvin, and the Birth of Christ.

But Selden's interests extended into other fields of learning. From an early date he had been strongly attracted by oriental culture, and a knowledge of Hebrew and Arabic had been added to his accomplishments. The first public evidence of this was his treatise *De Diis Syris* concerning Syrian Mythology, which, published in 1617, at once gave him a European reputation as an oriental scholar.<sup>2</sup>

<sup>1</sup> The best general review of Selden's career is the article by Sir Edward Fry in D.N.B. LI, 212-224.

<sup>2</sup> An English translation of this work, which is said to be still consulted by students of the subject with which it deals, was published in Philadelphia in 1881 : see Encycl. Brit. XXIV, 600.

Notwithstanding his absorption in literary labours, Selden was now becoming keenly interested in public affairs. This no doubt arose largely from his intimacy with Sir Robert Cotton, whose house at Westminster was the rallying-point of the popular leaders then beginning to organize resistance to the arbitrary pretensions of the Crown. The extensive knowledge of Parliamentary precedents which Selden had already acquired, possibly, as has been suggested, through copying and extracting records for Sir Robert's collection, must have made him a valuable recruit to the opponents of the Court. He is believed to have assisted in drawing up the Protest made by the Commons as to their rights and privileges in 1621, which so angered King James that he tore the record out of the Journal of Parliament with his own hand. At any rate Selden was one of those arrested in consequence of this defiance of the royal will, and spent some months in the Tower. While there he seems to have employed his time upon his edition of Eadmer's *Historia Novorum sive sui Seculi*, with legal and historical notes, which was issued to the public in 1623. In that year he entered the House of Commons as member for Lancaster. Again in Parliament in 1626, he took an active part with Wentworth (then in opposition to the Crown) and Noy in the attack upon Buckingham. This, however, did not prevent him publishing about the same time his account of the Arundel Marbles (*Marmora Arundelliana*), which still further added to his reputation as scholar and antiquary. He next appears as counsel moving for a habeas corpus on behalf of Sir Edmund Hampden, imprisoned with others for refusing to comply with the King's demand for a forced loan. In the Parliament of 1628/9 he seconded the motion of Sir Edward Coke denouncing Buckingham as the cause of the discontents then prevailing, and assisted in drawing up the Petition of Right against benevolences and imprisonment without trial. In March, 1629, he was again arrested with Sir John Eliot and other members, and suffered further imprisonment, not recovering his liberty till May, 1631. Prior to this (and perhaps as early as August, 1625),<sup>1</sup> Selden had been appointed Steward to Henry Grey, 7th Earl of Kent, and on his release from confinement, he resumed his literary labours at the Earl's country seat in Bedfordshire. There next appeared in Latin his work on the Jewish law of succession to the goods of deceased persons. Notwithstanding his treatment by the Crown, he seems to have been a willing organizer of the great

<sup>1</sup> See Selden's letter to Archbishop Usher, dated August 4th, 1625 (Works).

Masque given at Whitehall by the four Inns of Court in February, 1633, and to have taken extraordinary care and pains over the business.<sup>1</sup> His *Mare Clausum*, a treatise he had composed some years before in reply to the *Mare Liberum* of Grotius, was published in 1635 as an answer to the claim of the Hollanders to fish off the English coasts, and in 1638 his work on the Hebrew succession to the office of High Priest, also in Latin. This was followed, two years later, by his *De Jure Naturali et gentium juxta disciplinam Ebraorum*, another work on Jewish law. To the Long Parliament he was returned in November, 1640, as Member for Oxford University. In the same year was issued his treatise on Judicature in Parliament, and in 1642 Privileges of the Baronage of England (said to have been compiled at the request of the House of Lords), and *Eutychie Ecclesiæ suæ origines*, a translation into Latin from the Arabic of part of the Annals of Euty chius, Patriarch of the Church of Alexandria in the early part of the tenth century, dealing with the founding of that Church and its original government under a Bishop chosen by Presbyters. In the House of Commons he now appeared less in sympathy with the popular party, maintaining the right of the Bishops to seats in the House of Lords, and opposing the Militia Ordinance as unconstitutional. Nevertheless, in October, 1643, the Parliament appointed him Keeper of the Records in the Tower. In this year he was also chosen one of the lay members of the Westminster Assembly of Divines, with whose Presbyterian leanings he had, however, little sympathy. There, his rôle seems to have been chiefly that of a destructive critic, and he much embarrassed the clergymen with whom he disputed by his citations of the original Greek and Hebrew texts. On this Whitelocke (also a lay member), whose leanings apparently, like Selden's, were not towards Presbyterianism, makes the following comment :

“ Mr. Selden spoke admirably and confuted divers of them in their own learning. And sometimes when they had cited a text of scripture to prove their assertion, he would tell them ‘ Perhaps in your little pocket Bibles with gilt leaves (which they would often pull out and read) the translation may be thus, but in the Greek or Hebrew it signifies thus and thus ’ ; and so would totally silence them.” <sup>2</sup>

<sup>1</sup> Whitelocke's Memorials, 20.

<sup>2</sup> *Ibid.* 71. “ He knew more of the history, practice, and law of the

Meanwhile, if growing lukewarm in the Parliament's cause, he was still pursuing his Hebrew studies, and in 1646 he published his Dissertation on the Jewish Calendar (*Dissertatio de anno civile et calendario republicæ Judaicæ*), and in 1646 a further work on Hebrew Marriage and Divorce (*Uxor Ebraica*). In 1645 he had been invited, but declined, to assume the office of Master of Trinity Hall at Cambridge. On January 16th, 1646, the House of Commons voted him a sum of £5000 as compensation for his "sufferings in oppressing the illegalities of the third year of King Charles;"<sup>1</sup> and on May 10th, 1647, an order was made for payment to him of this sum.

In these later years Selden seems to have taken little part in the controversies at Westminster. In April, 1645, he was placed on a Committee to manage Admiralty business,<sup>2</sup> with Whitelocke, Rolle, and Lisle among his colleagues. In September of the same year he spoke in a Church debate,<sup>3</sup> and in the following February successfully advocated the abolition of the Court of Wards.<sup>4</sup> This, however, seems to have been his last serious contribution to the debates in Parliament. In 1647 he published an edition of Fleta, and in 1650 another work on Jewish antiquities, *De Synedriis et Præfecturis Jurisdicis veterum Ebræorum*, of which a second part was issued in 1653, and a third after his decease. A preface to Sir Roger Twysden's *Historiæ Anglicanæ Scriptores Decem*, and *Vindiciæ*, a defence of the opinions he had advanced in his *Mare Clausum* treatise, completed the fruit of his literary labours. His Table Talk, by which he is now perhaps best known, was a compilation of Edward Milward, his amanuensis, and not published until thirty-five years after his death.

It is difficult to estimate how far Selden held himself out for practice at the Bar. He died rich, and the £40,000 which he left has led to the conjecture that he must have done a lucrative chamber and conveyancing business, for it is certain his appearances in Court were few and far between. But there are other ways of accounting for his accumulations. For many years he held the office of Steward to the Earl of Kent, and as he lived

Christian Church in all parts of the world than all the rest of the Assembly. He had the power which such knowledge confers; and when precedent was appealed to, as it could not but be and that frequently and vehemently he was absolute lord of the debate": Hill Burton, *Hist. of Scotland*, VI, 408, 409.

<sup>1</sup> Memorials, 234. This was his imprisonment in connection with the Petition of Right.

<sup>2</sup> *Ibid.* 142.

<sup>3</sup> *Ibid.* 169.

<sup>4</sup> *Ibid.* 194.



both in London and the country with the Earl at free quarters and after that nobleman's decease with the Countess,<sup>1</sup> and was thus saved the expense of maintaining any establishment of his own, at least until after her death in 1651, he may well have effected substantial savings from the emoluments of his office. Moreover, the Countess bequeathed him all her personal estate, and in addition to such profits as his writings may have brought him, he had received from Parliament the not inconsiderable sum of £5000. Had he seriously intended to hold himself at the service of clients, he would hardly have refused, as he did in 1624, to discharge the duties of Reader to Lyon's Inn without assigning any reason for his refusal; and persisted therein "notwithstanding many courteous and faire persuasions and admonitions by the Masters of the Bench used to him"; conduct which caused them to place on record "that it is without president that any man elected to read in Chauncerye hath beene discharged in like case much lesse hath with such willfullnes refused the same." Fined and excluded from Commons, he was for a time also disabled from receiving any preferment in the House. From this latter consequence, however, he was released in 1632, and on November 3rd, 1633, elected to the Bench.<sup>2</sup>

In view of Selden's immense reputation for learning, it seems strange that he never attained judicial office, and was not even advanced to the Serjeant's degree. Lord Clarendon states that Charles I at York in 1642, when dissatisfied with Lord Keeper Littleton, proposed to offer the Great Seal to Selden, but that Lord Falkland and himself dissuaded the King from doing so, by assuring him they were certain Selden would refuse it.

"He was in years," adds Lord Clarendon, "and of a tender constitution; he had for many years enjoyed his ease which he loved: was rich, and would not have made a journey to York or have lain out of his own bed for any preferment; which he had never affected."<sup>3</sup>

Though for many years Selden had lived splendidly in the great Carmelite Mansion of the Earl and Countess in

<sup>1</sup> To whom he is said to have been privately married: Aubrey's Lives (1813), II, 531.

<sup>2</sup> See A.P. II, 152, 154, 204, 210.

<sup>3</sup> History, Vol. II, p. 498 (Edit. 1826).

Whitefriars,<sup>1</sup> where his books and MSS., with the other treasures of his collecting, were housed, to the last he kept his chamber in the Inner Temple. It was where No. 1 Paper Buildings now stands; in the uppermost story of the building erected by his friend, Edward Heyward, to whom, as already stated, he dedicated his Titles of Honour. The outlook was towards the garden, and here, says John Aubrey, "he had a little gallery to walk in."<sup>2</sup>

"He dyed," says the same authority, "in *Ædibus Carmeliticis* (aforesayd) the last day of Nov<sup>r</sup> Anno Domini 1654; and on Thursday the 14th of Dec<sup>r</sup> was magnificently buyred in the Temple Church. His Executors were Mathew Hale (since Lord Chiefe Justice of the King's Bench) John Vaughan (Lord Chief Justice of the Common Pleas) and Rowland Jewkes Esq; *quære* the fourth Executor.<sup>3</sup> They invited all the Parliament men, all the Benchers and great officers. All the Judges had mourning as also an abundance of persons of quality. The Lord Primate of Ireland (Usher) preach't his funerall sermon." His grave "was about ten feet deepe or better, walled up a good way with bricks, of which also the bottome was paved, but the sides at the bottome for about two feet high were of black polished marble, wherein his coffin (covered with black bayes) lyeth, and upon that wall of marble was presently let downe a huge black marble stone of great thicknesse with this inscription *Heic jacet Corpus Johannis Seldeni qui obiit 30 die Novembris 1654*: over this was turned an arch of brick (for the House would not lose their ground) and upon that was throwne the earth &c. And on the surface lieth another faire gravestone of black marble with this inscription—*I. Seldenus L.C. heic situs est.*"<sup>4</sup>

<sup>1</sup> "The Carmelite house was before the conflagration a noble dwelling," says Aubrey: *Lives* (1898), II, p. 221.

<sup>2</sup> *Ibid.*

<sup>3</sup> Edward Heyward; see will June 11th, 1653, *Opera* I, LIII.

<sup>4</sup> Here is laid J. Selden, Counsellor at Law. In a note Aubrey adds, "This coate (depicting it in a drawing) is on the flatt marble; but is indeed the Coate of his Mother, for he had none of his owne, though he so well deserved it. 'Tis strange (methinke) that he would not have one." The Arms of Baker (Kent) are given as follows in *Burke's Armory*: "Azure on a fess between 3 swans heads or and ducally gorged gules as many cinquefoils of the first." The drawing seems to agree with this: *Lives* (1898), II, p. 222.

At the time of his death the use of the burial service of the Church of England was prohibited for an Ordinance of the Parliament (January 4th, 1645), "taking away the Book of Common Prayer," had established in its place the Directory of Public Worship, which, "Concerning Burial of the Dead," ordered as follows :

"When any person departeth this life, let the dead body upon the day of Burial, be decently attended from the house to the place appointed for Publique Burial and there immediately interred without any ceremony. And because the customes of kneeling down and praying by or towards the dead corps, and other such usages in the place where it lies before it be carried to Burial, are superstitious ; and for that praying, reading and singing both in going to and at the grave have been grossly abused, are in no way beneficial to the dead, and have proved many wayes hurtful to the living, therefore let all such things be laid aside. Howbeit we judge it very convenient, that the Christian friends which accompany the dead body to the place appointed for publique Burial, do apply themselves to meditations and conferences suitable to the occasion. And that the Minister as upon other occasions, so at this time, if he be present, may put them in remembrance of their duty : That this shall not extend to deny any civil respects or differences at the Burial suitable to the rank and condition of the party deceased whiles he was living." <sup>1</sup>

Thus, John Selden being buried, as Aubrey says, *Secundum usum Directory*, there was no ceremony at the grave, but some words were spoken by Mr. Johnson, then Minister of the Temple Church, under the liberty conceded of putting those present in remembrance of their duty.<sup>2</sup>

Mr. Inderwick, in his interesting introduction to the second volume of the published version of the Inner Temple Records, has drawn a graphic picture of the scene which the final homage paid to this remarkable man must have presented.

<sup>1</sup> Acts and Ords. of the Interreg. Vol. I, 582, see 604 ; Neal's Hist. of the Puritans (1822), V. p. xc, Appendix.

<sup>2</sup> Brief Lives (1898), II, 225.

"He was buried at night after the primitive custom of the early Christians and in accordance with the usage common to distinguished persons in the 17th century. The torchlight procession slowly wound its way from the old Carmelite Mansion in Whitefriars to the ancient church of the Templars. The body was committed to its marble sepulchre in barbaric glare without prayer song or ceremony. A great multitude of people comprising amongst them the most distinguished of the Judges, the Statesmen, and the lawyers and men of letters, followed the corpse and collecting round the grave formed a spectacle not witnessed since the departure of the Prior of St. John and never again repeated in the Temple Church." <sup>1</sup>

The black marble slab on the floor of the church which marked his resting-place was removed in 1843 to make way for encaustic tiles, and nothing now remains to indicate the actual spot where his body lies. It is somewhere beneath the aisle on the south side of the choir near the entrance from the Round Church. On the neighbouring wall has been placed a tablet of black marble bearing in gilt letters the epitaph which Selden himself composed and which Aubrey says was originally graven on white marble.<sup>2</sup> It is a simple inscription, recording Selden's birth and parentage, his mother's descent "*ex equestri Bakerorum, in Cantia familia,*" his age "*Ætatis fere LXX annorum,*" and thus concludes :

"Denatus est ultimo die Novembris  
Anno Salutis Reparatæ MDCLIV  
Per quam expectat heic  
Resurrectionem  
Felicem."

How many modern Templars, his fellow-members of the Inner House, as they pass to their places in this historic church, think of all the wealth of learning that lies buried beneath their tread !

Of the tributes paid to the immense learning of John Selden only a few can be noticed here. To Ben Jonson he was "Monarch

<sup>1</sup> I.T.R. II, Intro. cxx, cxxi.

<sup>2</sup> "On the side of the wall above is a faire inscription of white marble, the epitaph he made himself . . . and Marchmond Needham making mention of it in his *Mercurius Politicus* sayd 'twas well he did it, for no man else could doe it for him" : *Brief Lives* (Aubrey).



in Letters," "the bravest man in all languages," and to his friend, Archbishop Usher, so great a scholar that he himself was scarce worthy to carry his books after him. While of his place in Parliament it has been said :

"He appeared in the National Council not so much the representative of the contemporary inhabitants of a particular city as of all past ages, concerning whom and whose institutions, he was deemed to know whatever was to be known and to be able to furnish whatever within so vast a retrospect was of a nature to give light and authority in the decision of questions arising in a doubtful and hazardous state of the national affairs." <sup>1</sup>

But perhaps the range of Selden's knowledge is most concisely summed up in the words of Thomas Fuller, "his learning did not live in a lane, but traced all the latitudes of arts and languages." <sup>2</sup>

<sup>1</sup> Table Talk : Singer's Edit. (1856), LXXVI.

<sup>2</sup> Worthies, 111. Selden was tall. "I guess about 6 feet high," says Aubrey, "sharp oval face, head not very big, long noes inclining to one side, full popping eie (gray)." His portrait in oil may still be seen in the parliament chamber of the Inner Temple.

## CHAPTER XI

### THE TEMPLE UNDER KING CHARLES II

SEVENTY years had elapsed since Queen Elizabeth set out from Somerset Place to return thanks at St. Paul's Church for her deliverance from the Spanish Armada, when on November 23rd, 1658, another and very different procession set forth from the same house. This was the funeral cortège of Oliver Cromwell, who for five years had ruled England with a firmer hand than any which had held the sceptre since the days of Henry VIII. The Lord Protector had died at Whitehall on the 3rd of the preceding September, and his body, removed to Somerset House, had lain there in State during the two months required to complete the elaborate arrangements made to give him a more than royal burial.<sup>1</sup> John Evelyn, who witnessed the procession, has thus described it :

“Saw y<sup>e</sup> superb funeral of y<sup>e</sup> Protector. He was carried from Somerset House in a velvet bed of State drawn by 6 horses, hous’d with y<sup>e</sup> same ; the pall held up by his new Lords ; Oliver lying in effigie in royal robes and crown’d with a crown, sceptre, and globe, like a King. The pendants and guidons were carried by y<sup>e</sup> Officers of the Army ; the imperial banners acheifments &c., by y<sup>e</sup> hereaulds in their coates ; a rich caparison’d horse embroider’d all over with gold ; a Knight of honour arm’d cap-a-pie, and after all his guards, souldiers and innumerable mourners.”<sup>2</sup>

After Cromwell's death events marched rapidly. By May, 1659, what remained of the Long Parliament had been restored by the Army, and by the following July the reign of his son and

<sup>1</sup> The expenses of which are said to have amounted to the immense sum (for that day) of £79,000 : D.N.B. XIII, 181.

<sup>2</sup> Diary, October 22nd, 1658. It is curious that Evelyn gives the wrong date.

successor, Richard Cromwell, was over. In October General Monk had marched from Scotland, and on April 25th, 1660, the Convention Parliament met and invited Charles II, then at Breda, to return and assume the reins of government. On May 8th the King was proclaimed at Westminster Hall Gate. "The Lords and Commons," says Whitelocke, "standing bare by the heralds whilst the proclamation was made"; then at the usual places in the City

"the Lord Mayor, Recorder and Officers being present in their formalities and the militia forces being there also; and the people gave loud acclamations and shouts, the bells rang, the great guns and small shot gave many volleys and the City was full of bonfires and joys." <sup>1</sup>

On the 26th Charles landed at Dover, and, proceeding amid exuberant manifestations of welcome by Canterbury and Rochester to Southwark, made on the 29th his State entry into London. By a happy coincidence this day was also his birthday, and Evelyn, again a witness of the pageant, has told how King Charles returned from his long exile

"with a triumph of above 20,000 horse and foote, brandishing their swords and shouting with inexpressible joy; the wayes strew'd with flowers, the bells ringing, the Streetes hung with tapissry. Fountaines running with wine; the Mayor Aldermen and all the companies in their liveries, chaines of gold and banners; Lords and Ladies clad in cloth of silver, gold and velvet; the windowes and balconies all set with Ladies; trumpets, music, myriads of people flocking even so far as from Rochester, so as they were seven houres in passing the City even from 2 in y<sup>e</sup> afternoone till 9 at night." <sup>2</sup>

The coronation, which did not take place till nearly a year later, was again the occasion of a great procession, this time from the Tower to Whitehall, on April 22nd, 1661. "Those of the long robe the King's Council at Law," says Clarendon, "the Masters of the Chancery and Judges going first; and so the Lords in their order very splendidly habited," Dukes, Earls, Viscounts, and Barons.<sup>3</sup> "The King himself," chronicles the

<sup>1</sup> Memorials, 701.

<sup>2</sup> Diary, May 29th, 1660.

<sup>3</sup> Life, Continuation, 99.

enthusiastic Pepys, "in a most rich embroidered suit and cloak looking most noble. . . . So glorious was the show with gold and silver we were not able to look at it our eyes at last being so much overcome."<sup>1</sup> On the following day the crowning was performed in Westminster Abbey with the ancient ceremonial, and at night, says the same authority, "The City had a light like a glory round about it with bon fires"; while the whole populace gave themselves over to a riot of loyalty, drinking the King's health kneeling in the streets. Thus under the brightest auspices opened the *de facto* reign of Charles II, which was destined to be fraught with dire calamities for the City of London and the Temple.

No doubt gentlemen of the Inns of Court played their part in the welcome given to the King, but, as usual, the Minutes of the two Societies of the Temple contain no reference to the stirring public events of the time. The only allusions to them occur in the accounts. Those of the Middle Temple show that scaffolding was erected "at the King's coming in" and at his coronation. There is also an item dated May 8th, 1660, "bonfire at the Gate when the King was proclaimed"; and another of April 23rd, 1661, "bonfire King's Coronation and wine":<sup>2</sup> while the accounts of the Inner House include for the year 1660 as well as "faggots for bonfires" a disbursement of 15s. for "hire of carpitts and cushion for to hang the scaffold at the Gate when the King passed by."<sup>3</sup>

In one respect, however, the Temple Records very clearly reflect the altered complexion of the times, for they at once afford evidence of the return of members whom the Parliament had ostracized as "Delinquents," and of the passing of power and control from the dominant figures of the Commonwealth period. The first parliament held at the Middle Temple after the King's return elected to the Bench on June 1st, 1660, Sir Geoffrey Palmer, who as Attorney-General now reaped the reward of long devotion to the royal cause, and appointed a Committee to report what chambers had been sequestered and how they had been dealt with.<sup>4</sup> The problem of reinstatement, however, as the Minutes show, did not prove an easy one. Sometimes the tenant in actual possession had given value to the Inn and could not fairly be ousted. Sometimes the chamber demanded was no longer available for private use. Thus

<sup>1</sup> Diary, April 22nd, 1661.

<sup>2</sup> Treasurers' Accounts (1658-1727), 10, 15: M.T. Cal. 168, 169.

<sup>3</sup> Gen. Acct. Bk. II, 67.

<sup>4</sup> E. 26.



Mr. Laurence Hyde's former chamber had been added to the Library, and he was forced to be satisfied with other accommodation in Inner Temple Lane.<sup>1</sup> The Lords Commissioners of the Commonwealth had had large ideas of their own importance and requirements. Bulstrode Whitelocke had occupied two sets of chambers and John Lisle three. The former now offered to surrender his interest in favour of Sir Geoffrey Palmer, an offer which the Benchers accepted, and the chambers of the latter they divided into three Bench chambers.<sup>2</sup> On June 29th Mr. Edward Turner, Attorney to the Duke of York, and Mr. Frederick Hyde were called to the Bench,<sup>3</sup> while on November 8th, 1661, Sir Geoffrey Palmer was elected Treasurer,<sup>4</sup> an office in which, in the following year, he was succeeded by Sir Edward Turner, who had meantime received the honour of knighthood.<sup>5</sup>

In the Inner Temple also the passing of the Commonwealth and the return of the King brought changes in the governing body. On October 28th, 1659, Richard Goddard, a royalist, was chosen Treasurer in place of Edmund Prideaux, deceased, who, as Cromwell's Attorney-General, had so long ruled the fortunes of the Inn.<sup>6</sup> A month later, on November 24th, another royalist, Sir William Moreton, was called to the Bench.<sup>7</sup> This, however, was only a beginning. On May 30th, 1660, Sir Anthony Jackson, Henry Wynn, John Vaughan, Sir Orlando Bridgeman, John Keeling, and John Heath were added to the Bench, and on June 29th, "Sir Henege Finch his Majestie's Sollicitor Generall."<sup>8</sup> Further, in Michaelmas Term, the last-named was elected Treasurer,<sup>9</sup> and held the office for the long period of twelve years.

One of the first matters to engage the attention of the Bench in both Inns, after the Restoration, was the resumption of the long-suspended Readings. On November 9th, 1660, a committee was appointed at the Middle Temple "to consider the whole business concerning the choice of a Reader and informe themselves what other Inns of Court have agreed upon."<sup>10</sup> In fact, the Inner House had already chosen a Reader (Mr. Francis Phillips) on November 4th,<sup>11</sup> and on the 22nd the Benchers of the Middle Temple followed suit by appointing Mr. Thomas Munday Reader for Lent and Mr. Richard Allen Reader for Summer; at the same time putting it on record that to assist these gentle-

<sup>1</sup> E. 27.<sup>2</sup> E. 27, 29.<sup>3</sup> E. 29.<sup>4</sup> E. 50.<sup>5</sup> E. 66.<sup>6</sup> A.P. III, 128.<sup>7</sup> *Ibid.* 130.<sup>8</sup> *Ibid.* 133, 134<sup>9</sup> *Ibid.* 147.<sup>10</sup> E. 34.<sup>11</sup> A.P. III, 136.

men they would "consider of all manner of wayes for their ease accommodacon and encouragement."<sup>1</sup> Thus fortified, Mr. Munday accepted the office, and on February 1st a parliament resolved that he should be "required to read but a weeke for this next Lent Reading and that hee reading accordingly their Mastershippes declare his Reading shalbee adjudged a compleate Reading."<sup>2</sup> Cupboardmen were also once more appointed and Stewards for the Reader's Feast.<sup>3</sup>

The Summer Reading proved more difficult to arrange. Mr. Allen declined to read, and with another member, who also refused the office, was duly fined *pro non legendo*.<sup>4</sup> Two further selections likewise proved abortive, and eventually the duty was undertaken by Mr. Thomas Lake, to whom also the indulgence was granted of limiting his Reading to one week. At the same time it was ordered (June 28th, 1661) that he should not have more than ten men to attend him; the Bench further resolving

"for the better encouragement of Mr. Reader that hee shall forthwith have the Bench chamber late Sir Robert Reynolds<sup>5</sup> to hold the same as a Bench chamber and that the fifty pounds deposited by him<sup>6</sup> bee speedily paid him out of the Treasury of this House and that for the present Reading hee shall not be required to keepe a table in the Hall at suppers but to give exceedings in the Hall to the gentlemen then in Commons according to the auntient use."<sup>7</sup>

The Cupboardmen appointed for the occasion were allowed the unusual liberty of serving by deputy. Stewards were also nominated for the Reader's Feast, but failing to attend became liable to a penalty of £10 each.<sup>8</sup> In the case of one of them, Mr. Robert Grove, this penalty was afterwards ordered (January 31st) to be paid by the Inn, on his alleging his service and sufferings for the King his want of a chamber, that he had not resided in the House for many years, and no longer followed his profession.<sup>9</sup> Mr. Lake was allowed the indulgence of three special admittances during his Reading, but for all future Readers the former order was re-enacted which limited the Reader's privilege in this

<sup>1</sup> E. 35.

<sup>2</sup> E. 39.

<sup>3</sup> E. 41.

<sup>4</sup> E. 41.

<sup>5</sup> Lately deceased: Solicitor-General under the Commonwealth, he had supported the King's return, and was knighted at the Restoration.

<sup>6</sup> As a guarantee that he would read in his turn.

<sup>7</sup> E. 49.

<sup>8</sup> E. 49, 53.

<sup>9</sup> E. 55.

respect to one admittance only, Noblemen, Knights, and men of great quality excepted.<sup>1</sup>

Mr. Bennet Hoskins, the next Lent Reader, was granted the same terms as Mr. Lake in regard to the duration of his Reading, the men in livery to attend him and the extent of his hospitality to the House.<sup>2</sup> In the case of subsequent Readings there were many refusals to act by those elected or liable to serve in the office. On June 6th, 1662, no less than ten Benchers were reduced to the status of Associates and deprived of their voice in government at the Middle Temple on account of such refusal.

“It is ordered that henceforward they come not to the Councells in the parliament nor have to doe with the government of the House but are to bee only Associates and that those Masters that have [read] or shall read have precedency before those that are only Associates.”<sup>3</sup>

Sometimes the plea of age or ill health availed to excuse the nominated Reader. In illustration of this may be cited the case of Mr. Robert Stephens in regard to whom the Masters of the Bench on July 3rd, 1674, resolved as follows :

“Whereas Mr. Robert Stephens was appointed Reader for this next Autumne who by reason of his greate and apparent weaknes of body is disabled to performe the said exercise with that decorum as is requisite for such a solemnity It is ordered at the request of the said Mr. Stephens and in respect of his said apparent infirmitys that the said Mr. Stephens be dispensed with Reading.”<sup>4</sup>

A Bencher who refused to read in his turn besides being reduced to the status of an Associate lost his right to a Bench chamber, and, if in possession of one, might be expropriated by any Bencher who had served as Reader. If no such Bencher claimed it, he could only retain the chamber by paying rent to the Inn.<sup>5</sup>

<sup>1</sup> E. 51.

<sup>2</sup> E. 55.

<sup>3</sup> E. 61.

<sup>4</sup> E. 61. On May 24th, 1661, eight Benchers had been excused reading on account of age and infirmity.

<sup>5</sup> E. 63. Though English had been used for a time under Cromwell's rule, the appointments of officers are now again recorded in Latin at the Middle Temple; e.g. the following record of the appointment of Mr. William Constantine, and of his assistants, Cupboardmen and Stewards, February 5th,

On June 18th, 1664, orders were issued by the King's command, signed by the Lord Chancellor and all the Justices of both Benches and the Barons of the Exchequer, containing directions for the government of the Inns of Court and Chancery.<sup>1</sup> These revived with some additions the Regulations published in 1614 by order of James I. With reference to Readings they (*i.a.*) directed that those refusing the office of Reader were to be fined or otherwise punished, that all Readings were to commence at the usual time and continue till Friday in the second week from their commencement; and that Benchers, Barristers, and other gentlemen of the House were to attend and argue the Reader's cases and perform the other exercises and services "as hath been used by the ancient orders." Though the duty of attending the Readings was thus emphasized, the former practice at the Middle Temple under which vacation Barristers and students who failed to attend were regularly fined was not renewed, for no such fines are now recorded in the Minutes of parliament.

In restraint of indiscriminate hospitality the above orders further directed (*i.a.*) that no Reader was to have more than twelve liveried attendants or to expend in the whole charge of his Reading above £300, unless of the rank of King's, Queen's, or Prince's Counsel, or Recorder of London, or at liberty to come within the Bar.

The two years which immediately followed, 1665 and 1666, were the years of the Plague and the Great Fire, disasters which stopped for a time the Readings in both Houses, so that on four consecutive occasions, beginning with the Summer Vacation of 1665, no Reading was held in either Inn. In the summer of 1668 was held at the Middle Temple the Reader's Feast of Mr. Francis Bramston, son of Sir John Bramston, a former Chief Justice of the King's Bench. Evelyn, who attended as a guest, declares it "was so very extravagant and great as the like had not been seen at any time."<sup>2</sup> This, no doubt, is an exaggerated statement, but points at least to a very profuse hospitality. The company, he states, included the Duke of Ormonde, Privy Seal, Bedford, Belasis, Halifax, and a world more of Earls and Lords.<sup>3</sup>

1663: "Ad hoc parlamentum Magister Wilmus Constantine Lector electus pro tempore Quadragesimale, proxime futuro confirmatur et M<sup>r</sup> Proctor et M<sup>r</sup> Harvey ponuntur ei assistentes: astare abaco ponuntur M<sup>r</sup> Turnor, M<sup>r</sup> Ryves, M<sup>r</sup> Barton M<sup>r</sup> Beare: parare prandium Lectoris M<sup>r</sup> Johes White, M<sup>r</sup> Franciscus Buller M<sup>r</sup> Wilmus Dickinson M<sup>r</sup> Johes Harewell": E. 81.

<sup>1</sup> See these Orders, I.T.R. III, 30-33 (Miscellanea).

<sup>2</sup> Diary, August 3rd, 1668.

<sup>3</sup> *Ibid.*



Mr. Bramston's extravagance led to further orders by the Benchers in the following November in restraint of undue hospitality and for prevention of waste. These directed (*i.a.*) that no second course should be allowed on Reading days, nor any Banquet on Grand day, and forbade the giving of exceedings of meat or wine at supper.<sup>1</sup> But how ineffective they proved will soon appear.

Evelyn was again present as a guest at the Middle Temple Reader's Feast next summer, when Sir Henry Peckham was Reader. On this occasion he does not comment on its extravagance, but describes the function as "a pompous entertainment where were the Archbishop of Canterbury, all the great Earls and Lords, etc.," adding that he himself "had much discourse with my Lord Winchelsea, a prodigious talker and the Venetian Ambassador."<sup>2</sup> Having regard to Evelyn's view of the Law as an "impolished study,"<sup>3</sup> he was probably no very friendly observer on these occasions.

In 1671 Sir Francis North, Solicitor-General (and later Chief Justice of the Common Pleas and Lord Keeper), was the Summer Reader at the Middle Temple,<sup>4</sup> and again, despite the orders above mentioned, there was an orgy of hospitality. His brother and biographer, Roger North, states that he read on the Statute of Fines, and "found means to exhaust all his learning upon that branch of the Law which concerned titles and the transferring them." His official position and extensive social connections caused a great attendance at his Feast.

"He sent out the officers with white staves (for so the way was) and a long list to invite," says his brother, "but he went himself to wait upon the Archbishop of Canterbury, Sheldon; for so also the ceremony required. The Archbishop received him very honourably and would not part with him at the stair's head, as usually had been done; but telling him he was no ordinary Reader went down and did not part till he saw him pass at his outward gate. As for the feasting part," he adds, "it was sumptuous and in three or four days time cost £1000 at least. The grandees of the Court dined there and of the Quality (as they call it) enough; for his diffused relation, general acquaintance and station, as well as prospect of advancing in

<sup>1</sup> E. 132.

<sup>2</sup> Pietro Mocenigo: Diary, August 4th, 1669.

<sup>3</sup> See *ante*, p. 377.

<sup>4</sup> E. 162.

the King's service, made a great rendezvous of all the better sort then in town at his Feasts."

On the Grand day the extravagant profusion of the best provisions and wine seems to have had a demoralizing effect on the company, causing not only waste, but disorder and tumult, which his biographer (perhaps with some exaggeration) asserts only a disciplined guard of soldiers could have controlled.

"I cannot," he observes, "much commend the feasting used at these Readings and that of his Lordship's was so terrible an example that I think none hath ventured since to read publicly; but the exercise is turned into a revenue and a composition is paid into the Treasury of the Society. Therefore one may say, as was said of Cleomenes, that in this respect his Lordship was *ultimus heroum*, the last of the heroes." <sup>1</sup>

With his pardonable tendency to magnify his eminent brother's importance, this entertaining biographer, writing long after the event, was not accurate, however, in his last observation <sup>2</sup> quoted above. Sir Francis North was not the last of the heroes, for public Readings, though with some interruptions, continued nine years longer, and, to cite one instance from the Inner House, Sir Francis Pemberton in 1674 there "read learnedly and kept a noble table." <sup>3</sup> In fact, public Readings only ceased at the Middle Temple in 1680 and in the manner hereafter shown. Before that year the general dissatisfaction with which the old system was regarded led to a conference of all the Inns of Court, and an agreement approved by the King and Judges, the terms of which are entered on the Minute Book of the Middle Temple under the date May 10th, 1677. These again imposed a limit of £300 on the expenditure an ordinary Reader might incur, forbade his giving livery to more than two, reduced the Reading to one week, drastically limited the fare he might provide, and directed that except upon Grand days (which were to be but two) no one should be permitted to dine in the Hall during the Reading but members of the Society in their gowns. <sup>4</sup>

<sup>1</sup> Lives of the Norths, I, 98, 99.

<sup>2</sup> Lord Campbell, in his defamatory life of this Judge, falls into the same error: Chancellors, III, 445; which is even repeated by Dr. Jessop in his excellent account of Lord Guilford in D.N.B.

<sup>3</sup> Sir Henry Chauncy, Hist. Hertfordshire, II, 324.

<sup>4</sup> E. 227.

It might have been expected that thus reduced within reasonable limits, the Readings would have received a fresh stimulus. This, however, was not the case. Perhaps it was realized that a Reading which only lasted one week could have little educational value and was hardly worth preserving. At any rate, three years later, on June 25th, 1680, when Sir Francis Withins was chosen and confirmed Summer Reader, the Benchers of the Middle Temple made the following further order :

“ Also ordered that Sir Francis Withins shall have liberty to reade in the Hall upon the days accustomed, one, two, or three days, or not to reade at all, at his pleasure And that his said Reading bee without charge or expense And if he the said Sir Francis Withins shall bee at any expense in his Reading, that his said Reading shall not bee allowed by their Mastershippes And that the said Sir Francis Withins paying into the Treasury of this House in the same terme when he shal bee confirmed Reader and his Reading shal bee allowed by their Mastershippes the sume of two hundred pounds have all the rights privileges and benefitts of a Reader to all intents and purposes as if he had actually read And further that this order in all respects and parts of it shall continue and bee in force to every succeeding Reader for foure yeares from the end of Michaelmas term next : Every of the said Readers paying the like sume of two hundred pounds into the Treasury of this House as aforesaid when his Reading shal bee allowed by their Mastershippes.” <sup>1</sup>

Though the operation of the above order was limited to four years, the practice it established continued after that time had elapsed. Thus, ceasing to be in any sense educational, the Readings became, as Roger North says, a mere matter of revenue to the Inn ; the payment of the sum of £200 being in each case a sufficient discharge of the duties of the office.<sup>2</sup>

With the cessation of public Readings the election of Stewards for the Reader's Feast, so long a distinctive feature of the life of the Inn, also ceased. Perhaps because the order of June, 1680, left it at the pleasure of the Reader to read in the Hall, if

<sup>1</sup> E. 301.

<sup>2</sup> For a typical record under this system, see E. 504 (May 7th, 1703).

he chose to do so, Cupboardmen continued to be appointed some years longer. But as successive Readers failed to take advantage of this option nomination to the office became a mere formality. The last record of such an appointment is dated June 26th, 1691, when two members were named to stand at the Cupboard for the Summer Reading of Sir Bartholomew Shower.<sup>1</sup> The practice of electing two Assistants to the Reader survived somewhat longer, the last occasion of such appointments being the Lent Reading of Mr. Thomas Ekin, for which two assistants were chosen on February 12th, 1696.<sup>2</sup>

At the Inner Temple the resumption of Readings began with the election, on November 4th, 1660, of Mr. Francis Phillips as Reader for the ensuing Lent.<sup>3</sup> For the Summer Reading of 1661 the Benchers' choice fell on Sir Heneage Finch, Solicitor-General and later Lord Keeper and Chancellor,<sup>4</sup> the splendour of whose Feast, which will be described hereafter, became historic. The former appointments of Attendants upon the Reader and Stewards of his dinner were also revived. The lavish hospitality of Sir Heneage Finch was followed on November 24th of the same year by an order of the Inner Temple Benchers which, after reciting that the Readings "originally instituted for the improving of students and professors in the knowledge and learning of the Statutes and Lawes of this Kingdom," had resulted in unnecessary feasting and excessive cost never intended, enacted as follows :

"That for the time to come noe Reader of this Societie shall come into the hall anie night during the time of his Readinge in order to keepe anie supper, except itt be for the first day when the Reader is to take his place in the hall neither shall anie Reader of this Societie invite or enterteine in the hall any strangers upon anie Readinge daies to the end that hee may for the benefitt of the students and other fellowes of the Societie the better intend the performance of that exercise without improvident excesse." <sup>5</sup>

Six years later it was further enacted, on May 19th, 1667, that no Reader was in future to have more than six servants in liveries to attend him during his Reading without the licence and approbation of the Treasurer and Benchers of the Inn or the

<sup>1</sup> E. 383 : "Astare abaco ponuntur M<sup>r</sup> Bradbury, G., M<sup>r</sup> Goolde, H."

<sup>2</sup> E. 440.

<sup>3</sup> A.P. III, 136.

<sup>4</sup> *Ibid.* 140.

<sup>5</sup> *Ibid.* 147, 148.



major part of them for the time being first had and obtained unless he were King's, Queen's, or Prince's Counsel, or Recorder of London, or entitled to practise within the Bar ; and that gentlemen of the House were to be content with the Reader's allowance of wine in the public hall at meals without pressing or entering at any time themselves or carrying any strangers into the cellar appointed for the Reader's stores.<sup>1</sup>

Here also there was no great eagerness to accept the office, and heavy penalties were imposed upon members who refused it. Thus, on November 3rd, 1661, Mr. John Goodwynn for such refusal was disbenched and fined 100 marks.<sup>2</sup> On May 11th, 1662, Mr. John Heath, Attorney of the Duchy of Lancaster, on receipt of a letter in his favour from the King was specially excused the office in consideration of the services he had done and the great sufferings he had undergone for his Majesty.<sup>3</sup> Nine months later, on February 8th, a general order was made requiring any Benchers elected Reader who resolved to refuse the office to declare his intention and pay a fine of £100, and be disbenched. If he failed to declare himself and did not read, he became liable in addition to a further fine of £50 for disappointing the House.<sup>4</sup> This, however, did not stop refusals, and in 1664, when Mr. Arthur Bold declined to read, a drastic order was made that if he failed to read that summer he should be disbenched, deprived of his chamber, and fined £200, and that like penalties in future should be imposed upon all Benchers who, being elected to the office, failed to read in their turn.<sup>5</sup> Consequences which, in fact, befell Mr. John Cave, who declined to read during the ensuing Lent.<sup>6</sup> Later, Sir Simon Degg, who had been elected Summer Reader for 1674, was permitted to postpone his Reading in compliance with another royal letter of excuse ; but when he again objected to perform the duties in the following Lent, he was fined £200 and dismissed from the Bench.<sup>7</sup> There seems to have been no appointment to the office at the Inner Temple between November 18th, 1677, and May 3rd, 1681, when Sir Thomas Hanmer, Queen's Solicitor and "one of his Majesties learned Counsaile att law," was elected Reader,<sup>8</sup> and a resolution adopted for an Act to be passed for the better ordering of Readings. This Act, by authorizing as an alternative to Reading the payment of a sum of money much below the cost of a public Reading, resulted in the complete

<sup>1</sup> A.P. IV, 18.

<sup>2</sup> A.P. III, 146.

<sup>3</sup> *Ibid.* 152.

<sup>4</sup> *Ibid.* 161.

<sup>5</sup> *Ibid.* 164.

<sup>6</sup> *Ibid.* 168.

<sup>7</sup> A.P. IV, 64, 68.

<sup>8</sup> *Ibid.* 79, 106.

cessation of Readings also at the Inner Temple. Set out in the next Minute of the Benchers, it reads as follows :

“ Every person that is allready called to bee a Bencher of this Societie and hath taken his place accordingly att the Bench table in order to Reading and hath not Read nor consented for the same shall from henceforth pay into the hands of the Treasurer of this Societie for the tyme being as he standeth in seniority for the tyme of Reading, the term before hee is in turne to Reade, the some of £100 of lawfull money of England or Read (in case that the other Societies of the Inns of Court shall att the same tyme Reade) and in case hee shall then by writing under his hand to the said Treasurer for the tyme being disclayme the having the benefitt and advantage of any right to a Bench chamber as the same shall fall in course then to pay no more than the said sume of £100 and shall then bee accepted reputed and taken as an actual and perfect Reader as yf hee had actually Read But in case hee shall at the same tyme that he payeth the said £100 as aforesaid declare in writing under his hand aforesaid that he shall and will in his turne expect a Bencher's Chamber when the same shall fall in course then such person att the same tyme that hee maketh his eleccion by his writing as aforesaid shall pay to such Treasurer as shall then bee the farther some of fiftie pounds of like lawfull money and then to have and enjoy one Bench Chamber in his turne and course when the same shall happen to fall accordingly as other Benchers that have Read or coñuted for the same shall doe or may enjoy such chamber And in case any such person shall refuse in his turne to pay the said some of £100 or to Reade as aforesaid yf any Readings shall bee att the same tyme by other Societies of the said Inns of Court, then such person or persons for refusing shall be fourthwith disabled from being a Bencher of this Societie.” <sup>1</sup>

Before passing from this subject, two Readings in the Inner Temple during this reign call for special notice. The first of these was the Summer Reading in 1661 of Sir Heneage Finch, Solicitor-General. His Feast, which was held on August 15th,

<sup>1</sup> A.P. IV, 107.

was graced by the presence of the King—a unique honour never before enjoyed by any Reader of an Inn of Court. His Majesty came from Whitehall by river in the royal barge, attended by his brother, the Duke of York, and a train of courtiers, which included the Lord Chancellor (Sir Edward Hyde, now Earl of Clarendon), the Lord Treasurer (Earl of Southampton), Lord Privy Seal (Lord Robartes), the Dukes of Buckingham, Richmond,<sup>1</sup> and Ormonde, the Lord Chamberlain (Earl of Manchester), the Earls of Ossory, Bristol, Berkshire, Portland, Strafford, Anglesey, Essex, Bath, and Carlisle; the Lords Wentworth, Cornbury, De la Warr, Gerrard of Brandon, Berkeley of Straton, and Cornwallis; the Comptroller and Vice-Chamberlain of the Household (Sir Hugh Pollard and Sir George Carteret), Sir William Morris, one of the Principal Secretaries of State; the Earl of Middlesex (Lord Commissioner of Scotland), the Earl of Glencairn (Chancellor of Scotland), and the Earls of Lauderdale and Newburgh, and other Commissioners of that kingdom, as well as the Earl of Kildare and other Commissioners of Ireland.

At the Temple stairs the King was received by Mr. Reader, with whom was Sir Orlando Bridgman, now Chief Justice of the Common Pleas (a former Bencher of the Inn), arrayed in his scarlet robe and collar of S.S. As the King passed from the landing-place on either hand stood the Reader's servants wearing his liveries, of white tabba doublets and cloaks of scarlet, while above them on each side were ranked the Benchers, Barristers, and other gentlemen of the Society, all in their gowns and formalities. An accompaniment of music was provided from the time his Majesty landed till he entered the Hall, and there he was received with the playing of twenty violins, which playing continued so long as he stayed.

During dinner the King and the Duke of York were seated under a canopy of State at a table raised three steps above the rest, at the upper end of the Hall, while the Lord Chancellor and other noblemen occupied a long table on the right side and the Reader and other gentlemen of the Inn another on the left. The viands were served by fifty members of the House specially selected for the duty, and no other attendants were permitted to come within the Hall. True to their practice of ignoring all happenings at the Readers' dinners, the Benchers make no reference in their Minutes to this interesting occasion, and the

<sup>1</sup> A son of Charles II; he was specially admitted a member of the Inn at his own request on May 5th of this year: see A.P. III, 141.

presence of King Charles in their Hall. Samuel Pepys has but a brief allusion to it in his Diary, and only Sir William Dugdale then Norroy King of Arms, has placed on record the particulars above set forth.<sup>1</sup>

The second occasion was not graced by royalty, but memorable for another reason. On November 8th, 1668, Master Christopher Goodfellow was chosen Reader of the Inner Temple for the ensuing Lent. His Feast was fixed for March 3rd, and among the guests he invited to attend it were the Lord Mayor (Sir William Turner) and some of the City Aldermen. From time immemorial the gentlemen of the Inn had always resented any assertion by the City Authorities of a right of jurisdiction over the Temple,<sup>2</sup> which in ancient days as the property of an ecclesiastical Order under the special protection of the Papal See had been immune from all other control and *privilegiatus et extra jurisdictionem* of the City. The symbol of civic authority was the Sword of Justice carried before the Lord Mayor in his official capacity as Chief Magistrate, and Mr. Reader Goodfellow, finding that the junior members of his Inn were conspiring to give his City guests a hostile reception, should this ceremonial be observed in the Temple, despatched two members of the House, as his delegates, to Guildhall, to let his Lordship know what was brewing, and request him to humour the young gentlemen and avoid any unpleasantness by waiving for the occasion any such assertion of his disputed jurisdiction. One of these delegates was George Jeffreys, called to the Bar in the preceding November, and who was destined to become Chief Justice and Chancellor. The Records of the Inn include a letter written by Thomas Wroth (the other delegate) to William Petyt, which tells how the Reader's representatives fared at Guildhall and what answer they brought back to the Temple. When ushered into the Mayoral presence they found his Lordship presiding over the Court of Aldermen, "a stately object for a curious eye." Addressed by Jeffreys (who acted as spokesman) in what seems to have been a tactful speech, the Lord Mayor proved stiff-necked, and would abate none of his pretensions. He declared that he bore the King's sword; that London was his jurisdiction

<sup>1</sup> Origines Juridiciales, 157, 158.

<sup>2</sup> This claim of the City to jurisdiction over the Temple had been resented before by the students of the Inner House, when John Prideaux was Reader in the summer of 1555: see Foss, V, 352; and for a later case, *post*, p. 257. The Middle Temple seem to have been more fortunate in preserving harmonious relations with the City, as there is no record of any such rioting at the Readings of that House.



and the Temple part of it. For a time it seemed he would reject the Reader's proffered hospitality altogether and solve the problem by absenting himself from the dinner, which was by no means what Mr. Reader desired. Eventually, however, other councils prevailed, and the final decision left no doubt as to his intentions. "My service to your Reader," said his Lordship. "Tell him I will come and dine with him. I will bear up my sword and see who dares take it down."<sup>1</sup> This, no doubt, was a brave answer, but it courted trouble, and the trouble came; for when the Lord Mayor arrived at the Inner Temple, he found the students of the House waiting for him, who, as soon as they saw the City's sword held aloft, raised a tumult and beat it down. They also abused the Lord Mayor's attendants and compelled him to fly for shelter to the private chambers of Mr. Phillips, Exchequer Auditor. Here for a time his Lordship seems to have been effectually marooned. Abandoning all thought of enjoying the Reader's hospitality, he resolved to escape from the nest of hornets in which he found himself by returning to the City. But this at first proved beyond his power, for, mobbed again in the cloisters, he was forced to beat a second retreat to his former place of refuge, and not until hunger and the superior attractions of the Reader's dinner had drawn off the younger gentlemen to the Hall, did he succeed in furtively making his way out of the Temple.

This episode did not escape the notice of Samuel Pepys, who gives the following account of it :

"Did hear how my Lord Mayor being invited this day to dinner at the Reader's at the Temple, and endeavouring to keep his sword up, the students did pull it down, and forced him to go and stay all the day in a private counsellor's chamber until the Reader himself could get the young gentlemen to dinner; and then my Lord Mayor did retreat out of the Temple by stealth, with his sword up. This do make great heat among the students; and my Lord Mayor do send to the King, and also I hear that Sir Richard Browne did cause the drums to beat for the Train-bands; but all is over, only I hear that the students do resolve to try the charter of the City."<sup>2</sup>

<sup>1</sup> I.T.R. III, 66, 67 (Miscellanea).

<sup>2</sup> Diary, March 3rd, 1668.

The Lord Mayor did, in fact, complain to the King, and the matter went before the Council, where the Recorder of London, with representatives of the Court of Aldermen and eight gentlemen of the Inner Temple (charged as principal offenders against his Lordship's dignity), were summoned to attend. One of these culprits, Master Hodges, was alleged to have called his Lordship "Mr. Mayor" and to have "used him slightly."<sup>1</sup> William Petyt, who seems to have rendered yeoman's service in preparing the case for the Inn, was shortly after called to the Bar by the grateful Benchers "for his services done in asserting and defending ye Rights and Privileges of ye Temple."<sup>2</sup>

Before the King in Council the cause of the Inn was entrusted to the skilful advocacy of their Treasurer, Sir Heneage Finch, the notes of whose argument are still preserved in the Inner Temple.<sup>3</sup> The immunity of the Temple from City jurisdiction when ecclesiastical property was indisputable; and seeing it had not been included amongst the properties formerly Monastic over which the City had been given jurisdiction by charter, it would seem that this omission was alone sufficient ground on which to rest the Society's case. Sir Heneage, however, thought it prudent to enlarge upon the "insupportable" inconveniences which would result from allowing the City any right of jurisdiction over the Temple. These he elaborated under the five following heads:

(1) Where the City had jurisdiction it might by Act of Common Council impose taxes, make parish officers, appoint scavengers, etc.; (2) in the City a plaintiff in the Counter without any writ from his Majesty being sufficient warrant to authorize the arrest of any man, the same state of things would exist in the Temple, and no debtor in a long vacation dare come to a lawyer's chambers for council; (3) by his profession a Barrister must keep his chamber door open to receive clients, hence any City officer could enter and fetch him out of his study and carry him off to prison; (4) the evidences [of title] entrusted to a Counsel by his clients might on a pretended execution by City officers in the long vacation be taken with his books, trunks, etc., and in consequence lost; (5) finally, the City's claim if allowed would dissolve the Temple Societies and cause all the students to get themselves admitted to Gray's Inn or Lincoln's Inn, where the Serjeants, Bailiffs, and officers of the Counter

<sup>1</sup> I.T.R. III, 66 (Miscellanea).

<sup>2</sup> A.P. IV, 41 (February 12th, 1670).

<sup>3</sup> Petyt MSS. XVII, No. 538, p. 388; see also I.T.R. III, 463-466.

could not reach them. On the other hand, he argued that the inconvenience to the City of disallowing their claim was practically nil.

King Charles, however, had no desire to alienate either the City or the lawyers, so, with his accustomed shrewdness, he ruled that the privileges of the Temple must first be tried in a Court of Law, and thus avoided giving any judgment; for there the matter rested, the Mayor having no inclination to risk an adverse decision of the Courts.

The meetings of the Benchers in parliament became more frequent at the Middle Temple after the Restoration. The usual number of parliaments held in the year was now eight, and in addition there were many other meetings by adjournment. Notwithstanding the special status and privileges of the Masters of the Bench there was no great desire at this period to be so promoted, for many refused the honour. To counteract this it was enacted at the Middle Temple on April 14th, 1676, as follows :

“ Their Mastershippes finding a greate failer in coming to the Bench by divers auntients of the Barr who were of late called to the Bench It is ordered that henceforward noe less fine than fifty pounds shal bee imposed upon every person that shal bee called to the Bench and shall refuse to come.” <sup>1</sup>

At the Inner Temple, also, it was found necessary to impose a substantial pecuniary penalty upon members refusing the Bench. Thus, in February, 1663, George Johnson and George Cure for such refusal were each fined forty pounds and for ever disabled from being Benchers of the House.<sup>2</sup> In two similar cases of default in 1667 the fine was 100 marks (£66 13s. 4d.),<sup>3</sup> and a like penalty was imposed in 1670, when five, and in 1682, when six, members of the Bar again declined the honour.<sup>4</sup> Here the domestic management was now chiefly carried on by orders made at the Bench Table, though the more important of these were also confirmed in parliament. Orders of this kind were unknown at the Middle Temple where, following the ancient practice, all administrative business of the House was still transacted in the parliaments of the Benchers, and the Minutes headed as formerly, “ *Ad parlamentum tentum.*”

<sup>1</sup> E. 212.

<sup>2</sup> A.P. IV, 20.

<sup>3</sup> A.P. III, 161.

<sup>4</sup> *Ibid.* 36, 118.

Two orders specially concerning the Benchers which were made at the Middle Temple during this reign may be noticed here. On June 13th, 1673, the former rule against disclosure of matters debated in parliament was revived as follows :

“ In pursuance of the auntient practice and orders of this house it is ordered that if any Master of the Bench shall reveale any matter of counsell that shall from henceforth bee debated in any parliament holden in this house, it being proved, that then every such Bencher shall loose his voice in parliament and be secluded from Councells.” <sup>1</sup>

On October 27th, 1682, a further order was enacted requiring a certain standing in the profession for call to the Bench.

“ Also ordered that no member of this house be called to the Bench untill he hath beene fiftene years standing of the Barr unles such person shalbe of the King’s Majesties Councell or bee dignified by some other such like character.” <sup>2</sup>

The following elections of Associates to the Bench were made at the Middle Temple after the Restoration, all of them in respect of appointment to some office : 1663 (October 30th), Sir Robert Henley, Prothonotary of the King’s Bench, and Mr. Henry Barker, Clerk of the Crown in Chancery ; <sup>3</sup> 1683 (June 22nd), James Astry, Esq., a Master of the Chancery in Ordinary ; <sup>4</sup> 1691 (January 29th), Mr. Matthew Johnson, Clerk of the Parliaments, <sup>5</sup> and (November 25th) Mr. Thomas Chute on being made Clerk of the Crown in Chancery. <sup>6</sup>

There were also numerous elections of Associates to the Bench at the Inner Temple, though the reason of election is not there always stated. They included the following : 1667 (February 9th), Sir Nicholas Stroud <sup>7</sup> and (May 24th) Humphrey Wirley ; <sup>8</sup> 1669 (November 7th), William Longvile, one of the six Clerks in Chancery ; <sup>9</sup> and (February 11th), John Phelips ; <sup>10</sup> 1683 (November 18th), John Cooke, Chief Prothonotary of the Court of Common Pleas ; <sup>11</sup> 1686 (May 17th), John Methwen,

<sup>1</sup> E. 182. See *ante*, p. 297.

<sup>2</sup> E. 318.

<sup>3</sup> E. 76 ; Sir Robert was an ancestor of Lord Northington, L.C.

<sup>4</sup> E. 327. <sup>5</sup> E. 386.

<sup>6</sup> E. 393.

<sup>7</sup> A.P. IV, 21.

<sup>8</sup> *Ibid.* 24.

<sup>9</sup> *Ibid.* 35.

<sup>10</sup> *Ibid.* 36.

<sup>11</sup> *Ibid.* 27.



one of the Masters in Chancery,<sup>1</sup> and (June 15th) Sir Samuel Astrey, Clerk of the Crown in the King's Bench ;<sup>2</sup> 1688 (July 4th), William Tempest, Prothonotary ;<sup>3</sup> 1692 (November 17th), John Milbourne, William Millman, and Benedict Browne ;<sup>4</sup> 1702 (June 22nd), George Wright, Clerk of the Crown ;<sup>5</sup> and 1704 (November 10th), John Borrett, one of the Prothonotaries of the Court of Common Pleas.<sup>6</sup> On June 19th, 1681, the Bench of that Inn enacted that all Associates to the Bench

" shall pay to the Treasurer of this house for the tyme being the some of Fiftie Pounds of lawfull money before hee or they soe called Associate as aforesaid shall take his place att the Bench Table of this Societie." <sup>7</sup>

Accordingly, all the above entries after that date conclude as follows : " paying the sume of Fiftie Pounds into the Treasury of this house."

With the Restoration the former custom was also renewed of admitting persons *honoris causa*, who were distinguished by public service or social position. In this way Charles Stuart, Duke of Richmond, K.G., Lord Great Chamberlain and High Admiral of Scotland, was at his own request specially admitted to the Inner Temple on May 5th, 1661,<sup>8</sup> and his Royal Highness the Duke of York (afterwards King James II), the Duke of Buckingham, the Earl of Dorset, and Sir William Morris, Secretary of State, in the following November ; the Duke of York being also called to the Bar and Bench.<sup>9</sup> Thus establishing a precedent which is still followed at the Inns of Court in the case of members of the reigning House. In the next year his Highness Rupert Prince Palatine, Thomas Earl of Cleaveland, Joselin Lord Peirecy, John Lord Berkeley of Stratton, and Henry and Bernard Howard of Norfolk, Esquires, were also made members of the Inn.<sup>10</sup> Many other admissions of a like kind followed. In 1671, Theophilus Earl of Huntingdon, Robert Earl of Ailesbury, Thomas Lord Viscount Faulconbridge, and Charles West, son of Lord De la Warr, were so admitted ;<sup>11</sup> in 1673, William Earl of Craven, John Lord Viscount Brackley, Sir Richard Ingoldsby and Sir William Egerton (both Knights of the Bath), Thomas, Charles, and Stuart Egerton, sons of the

<sup>1</sup> A.P. IV, 155.

<sup>2</sup> *Ibid.* 156.

<sup>3</sup> A.P. V, 5.

<sup>4</sup> *Ibid.* 26.

<sup>5</sup> *Ibid.* 69.

<sup>6</sup> *Ibid.* 77.

<sup>7</sup> A.P. IV, 108.

<sup>8</sup> A.P. III, 141.

<sup>9</sup> *Ibid.* 146.

<sup>10</sup> *Ibid.* 156.

<sup>11</sup> A.P. IV, 41.

Earl of Bridgewater, Sir George Croke and Broome Whorwood, Esq.;<sup>1</sup> in 1674, the Earls of Arlington and Burlington, Lords Clifford, Byron, and Lucas, the Bishop of Rochester (John Dolben, later Archbishop of York), the Bishop of Oxford (Nathaniel Crewe, later Bishop of Durham), and Sir Robert Holt;<sup>2</sup> in 1675, Charles Duke of Southampton, and Henry Duke of Grafton (sons of the King), George Earl of Northumberland, the Earls of Northampton and Ancram, Lords Windsor and Berkeley, Edward Gray, Edward Kynaston and William Eyton, Esq.;<sup>3</sup> and in 1676, Christienlaus Duke of Mecklenburgh, Charles Lord Grey of Rolleston, Sir John Brownlowe, Bart., George Clarke, Esq., and William Berrington.<sup>4</sup>

There were also admittances of this kind at the Middle Temple during the reign of Charles II. On February 21st, 1665, George Villiers, second Duke of Buckingham (the Zimri of Dryden's *Absalom and Achitophel*), and the Duke of Monmouth and Buccleugh, then only fourteen years of age but already a Knight of the Garter, were so admitted, at the instance of the Reader (Mr. John Turner) and other Masters of the Bench. While on August 4th, 1669, when Sir Henry Peckham was Reader, there were the following further admissions of honour to the Inn: Pietro Mocenigo, Ambassador of the Republic of Venice; Heneage Finch, Earl of Winchelsea; George Lord Berkeley; Richard Lord Gorges of Dundalk; Jacques du Moulin; Charles Lord Clifford (son of the Earl of Burlington); and the Hon. Edward Howard (brother of the Duke of Norfolk). The signatures of all the above-mentioned honorary members, with the single exception of the Duke of Monmouth, appear in the Book of Admittances. The exception is probably due to the young Duke's age.<sup>5</sup>

Pietro Mocenigo, the first of the two foreigners in this list of admissions, belonged to a family greatly distinguished in the annals of Venice, which had already given four Doges to that Republic and was destined to give three more.<sup>6</sup> Less is known concerning Jacques du Moulin. He appears to have been a French physician and on terms of close intimacy with George

<sup>1</sup> A.P. IV, 58.

<sup>2</sup> *Ibid.* 64.

<sup>3</sup> *Ibid.* 73.

<sup>4</sup> *Ibid.* 76.

<sup>5</sup> Booke of Admittances (1658-95), 97, 98, 162, 163. The Duke of Monmouth's entry is as follows: "21° Feb: 1664 Illustrissimus et Potentissimus Jacobus Dux Monmuthiæ et Buccleugh, Comes Doncastriæ et Dalkeith, Baro Tindallæ, Whitchurch et Ashdale et prænobilis ordinis aurea periscelidis eques, Admissus est in Societatem Medii Templi specialiter ex assensu M<sup>r</sup>i Johannis Turner modo Lectoris et aliorum Magistrorum de Banco."

<sup>6</sup> Larousse, *Dict. Universel*, XI, 355.

1st Earl and 9th Baron Berkeley, who was admitted at the same time, for he is described in the record as "*Medicinæ Doctor Amicus Carissimus Domini Berkeley.*"<sup>1</sup>

On February 9th, 1682, there were the following further honorary admissions to the Middle Temple Society: George Savile Marquis of Halifax (Lord Keeper of the Privy Seal), Charles Henry Seymour 6th Duke of Somerset and Marquis of Hertford, etc., James Butler 12th Earl and 1st Duke of Ormonde (Lord Lieutenant of Ireland for the fourth time), James Douglas Earl of Arran (later 4th Duke of Hamilton), James Butler Earl of Ossory (later 2nd Duke of Ormonde), John Fitzgerald 18th Earl of Kildare, Wentworth Dillon Earl of Roscommon, described by Dr. Johnson as "one of the benefactors of English literature," Nicholas Taaffe Earl of Carlingford, Charles Bodvile Robartes Viscount Bodmyn, Thomas Fitzwilliam Viscount Merryon, Murragh Boyle Viscount Blessington, and Theobald Burke 3rd Lord Brittas.<sup>2</sup> These last admissions in which Ireland is so largely represented are not signed by the gentlemen admitted, nor are they expressed to be at the instance of the Reader (at this time Mr. Roger North), but they were all admissions of honour and free of any fine. Perhaps they were made under an order passed on the 26th of the preceding January that such noblemen as Sir Francis Withins should affirm to Mr. Treasurer to desire to be admitted should be entered in the Books of Admittances accordingly by Mr. Treasurer.<sup>3</sup>

The Restoration brought also a fresh effort on the part of the Benchers of both Societies to revive the ancient exercises of learning and compel their due performance by all candidates for the degree of the Bar and by Barrister Vacationers after call.<sup>4</sup> This laudable attempt seems, however, to have been attended by very indifferent success in either House. They were undoubtedly handicapped by the decay of the Readings, the pivot on which the original system of legal education in the Inns had turned, and amongst the junior members there seems to have been little enthusiasm for the prosecution of learning in the old practical way. At the Inner Temple in November, 1682, a Committee was appointed to consider the standing in time and exercises to be there required for call to the Bar, and

<sup>1</sup> Bk. of Admittances, 162.

<sup>2</sup> "Baro de Brittas in Regno Hiberniæ": Bk. of Admittances (M.T. Socy.), 426, 427. See also Notable Middle Templars, *passim*.

<sup>3</sup> E. 322. Sir F. Withins had been the preceding Treasurer: E. 311.

<sup>4</sup> See E. 38, 160, 161, 180, 188; A.P. III, 173; IV, 3, 120.

in the following February an order was made,<sup>1</sup> which, after reciting that the learning of the House was much decayed through young students frequently pressing to be called who were not of full time and had not done or performed any of the exercises of the House or had done very little, with the result that Utter Barristers, who ought to take part in the post-call exercises of learning, were very unable to do so, enacted that no member of the Society should in future be presented for call to the Bar unless he were of full seven years' standing,<sup>2</sup> and had performed the following exercises: one Imparlance, one Library Moot, six petty Moots, six Clerks' Commons Cases, and in case of Grand Readings four Grand Moots. Further, withdrawing the concession formerly made, it was also enacted that there should be no call to the Bar but only in Michaelmas Term yearly. The four Grand Moots mentioned above may be dismissed from consideration, for this was the year which witnessed the final extinction of public Readings at the Inner Temple, and for the future it may be assumed that whatever forms are prescribed and nominally observed, it will not be from his Inn that the young Templar will derive his real instruction in Law, but from private study, attendance in Court, pupillage, and "devilling."

The Benchers of the Middle Temple were still insistent on the ancient etiquette being observed, which had so long governed the life of the Inn, as appears from an order of November 5th, 1668:

"Whereas Master Barrell James Smith William Paulett and Elias Ashmole being of the barr mess this night at supper did rise from the barr table and goe out of hall before the Masters of the Bench rose, in contempt of the Masters of the Bench, and contrary to the auntient custome and constant practise of this house, It is ordered that the said gentlemen bee fined 10/- a peice for their said contempt to bee forthwith paid And further ordered that Mr. John Hanbam bee fined 10/- for coming into hall last night to supper with a white hatt being an indecent habitt and contrary to the orders made for the good government of this house And that the said fine bee paid forthwith And the under treasurer is required to demande the said

<sup>1</sup> A.P. IV, 120.

<sup>2</sup> Six years' standing had been enacted at the M.T. in May of this year. In June, 1689, it was raised to seven years for that Inn also (E. 316, 370), and so re-enacted May, 1699 (E. 460).



finer of the said gentlemen and give account thereof to the Masters of the Bench to-morrow at dinner." <sup>1</sup>

They were also still insistent upon the wearing of gowns in Hall when Commons were taken there and during the performance of Moots and exercises of learning. In January, 1684, they imposed a fine of 13s. 4*d.* upon any member acting in breach of this rule, besides declaring that vacationers who did not comply with it should forfeit their vacations.<sup>2</sup>

During the civil commotions of the Great Rebellion the institution of the Ancients' Table at the Middle Temple seems to have fallen into abeyance. The new system of electing to the Bench probably accounts for this. In 1671 it was revived by an order of February 9th as follows :

"In pursuance of the Auntient orders and usage of this house it is ordered that henceforward the usuall Auntient table bee sett aparte for the Auntient Barristers of this house and that noe other gent. of this Society doe sitt at that table when any of the said Auntients are in Comons upon paine of forfeiting three shillings and fourpence when any person shall soe doe contrary to this order And that this order take effect from the beginning of the next Terme." <sup>3</sup>

On November 22nd following it was further enacted :

"That no person that is pretermitted or hath refused to Reade or is fined *pro non legendo* doe sitt at any other table in the hall but the usual Auntient table that is sett apart for the Auntient Barristers of this house upon paine of forfeiting six shillings [and] eightpence for every offence contrary to this order And that the cheife Butler doe demand the forfeitures of the persons soe offending." <sup>4</sup>

There was still the old difficulty in securing prompt payment of Commons, and drastic remedies such as seizure of chambers and putting bonds in suit were employed from time to time to recover arrears. But so much has been said already upon this subject that it is not proposed to pursue it further here.

E. 130.

<sup>2</sup> E. 339.

<sup>3</sup> E. 171.

<sup>4</sup> E. 176.

In the year 1682 a Committee was appointed to consider the duties and remuneration of the office of Sub-Treasurer in the Inner Temple, and, as the result of their deliberations, the following rules to govern the office were adopted on July 6th of that year: <sup>1</sup> The Sub-Treasurer (now called the Standing Sub-Treasurer) was to receive all the monies paid to the Society, except what was collected on the Steward's Roll for Commons, and dispose of them as the Treasurer ordered. He was to be privy to all work done for the Society and all goods brought into the House, and give an account thereof to the Treasurer. He was allowed a poundage of 12*d.* in the pound on all monies received by him for the use of the Society, and £5 every term from the Treasury of the Inn for executing his office. Further, he was to be allowed a convenient chamber and 20*s.* from every gentleman admitted under certificate from an Inn of Chancery. For the due discharge of his office he was to give good security with three sureties to the value of £2000. On these terms Master Anthony Belbin, a member of the Society, was appointed Standing Sub-Treasurer. Some months later, on November 5th, a further order was made with regard to his duties. This required him to constantly attend in future at every parliament of the Inn and duly enter all acts and orders there made, to prepare all certificates and warrants of admittances either into or out of the House, and present the same to the Treasurer for his subscription; and to supervise the Butler in regard to the recording of the exercises performed by members standing for call to the Bar.<sup>2</sup>

The Restoration again revived the religious test for all candidates for the degree of the Bar, and at the Middle Temple it was enacted on November 22nd, 1667, that no person should in ordinary course be called to the Bar who had not received the Sacrament in the Temple Church within a year before his call; the fact to be certified when he applied to be called.<sup>3</sup>

Calls to the Bar were well maintained during the reign of Charles II. Some figures from the Temple Records will illustrate this. During the twenty-four years of the reign of Charles I there were 280 calls by the Middle Temple Society, and during the eleven years of the Interregnum 133, or, on an average, 12 per annum in each case. From the Restoration to the death of Charles II <sup>4</sup> there were at the same Inn 428, which, taking

<sup>1</sup> A.P. IV, 115.

<sup>2</sup> *Ibid.* 117.

<sup>3</sup> E. 118. For a call delayed till certificate produced, see E. 124.

<sup>4</sup> February 6th, 1684/5.

the reign at twenty-five years, gives an average of 17 calls per annum. When the numbers of admittances are examined <sup>1</sup> it is still clear that the majority of those joining the Society do not intend to practise law as a profession in life, for the proportion of those admitted who proceed to the degree of the Utter Bar is rather less than 1 in 4. It thus appears that the Inns of Court were still favourite training grounds of the nobility and gentry, and that Evelyn's account of his elder brother's education—first to Trinity College, Oxford, "thence to the Middle Temple, as gentlemen of the best quality did, but without intention to study law as a profession" <sup>2</sup>—was still typical of the habits of the time. At the Inner Temple the calls for this reign also exceeded 400, though the number there seems to be slightly less than the Middle Temple figure.<sup>3</sup>

If Utter Barristers after call still remained for a time *in statu pupillari* and under obligation to keep a certain number of vacations by performing prescribed exercises called assignments, the old ban upon their appearing in the Courts at Westminster before a certain number of years had elapsed after call seems to have become a dead letter. Francis North, of the Middle Temple, had only been called seven years when he attained the rank of King's Counsel; while George Jeffreys, called at the Inner Temple November 22nd, 1668, was chosen Common Serjeant in 1671. Provided the call had been published in the Inn and the oaths of allegiance and supremacy taken, there appears to have been nothing now to prevent the graduate in this law degree from forthwith appearing for any client who saw fit to retain his services. At the same time the word "Barrister" is acquiring a narrower significance. It is no longer applied with the prefix "Inner" to students below the Bar, and the time is not far distant when the modern description "Barrister-at-Law" will appear.

There is evidence now of removals from one Inn of Court to another, and of the person so removing being allowed to have the same seniority in the second Inn of his choice as he had in that to which he originally belonged. In this way the old rule that a person admitted to one Inn would not be received into another seems to be breaking down; though whether the member of one Inn of Court, on joining another, retained his status in the

<sup>1</sup> The admittance figures as calculated from the Books of the Inn appear to be as follows: Charles I, 1179; Interregnum, 593; Charles II, 1848.

<sup>2</sup> Diary, October 4th, 1699.

<sup>3</sup> 422 as recorded in the Acts of parliament.

first is more doubtful; probably he did not. The Records of Gray's Inn and Lincoln's Inn afford slightly earlier examples of such migrations than those of the Temple Societies. Thus, on June 2nd, 1654, Edward Lutwich was admitted to Gray's Inn from Lincoln's Inn,<sup>1</sup> and on February 9th, 1660, Philip Jones, who had joined Gray's Inn on October 29th, 1657, was received into the Society of Lincoln's Inn and called to the Bar there on November 22nd, 1666.<sup>2</sup>

Turning now to the Inner Temple: Arthur Sparkes of the Middle Temple and Charles Whittacre of Gray's Inn, on November 27th, 1670, and June 5th, 1673, respectively, were there admitted Utter Barristers with "the same standing of the Bar" as they had enjoyed in their former Inns.<sup>3</sup> Again, on January 26th, 1678, John Hoyle, formerly of Gray's Inn, was admitted to the Inner Temple *ad eundem statum*; <sup>4</sup> while on November 5th, 1682, occurs the admission of Francis Browne *ad eundem gradum*, called to the Bar at Gray's Inn November 21st, 1681, who had paid "his caution money for his Bar Moote," as appeared by certificate of the Treasurer of Gray's Inn, and who was to be in the same condition and have the same advantages as in the said certificate mentioned.<sup>5</sup> Two years later there is a similar admission of John Nicoll called to the Bar at Gray's Inn August 1st, 1674.<sup>6</sup> Further, William Petyt, who had joined the Middle Temple on June 8th, 1660, was called to the Bar at the Inner Temple (of which he was subsequently a Benchet and Treasurer) on February 12th, 1670.<sup>7</sup> Many other similar instances might be cited from the Records of the Inner Temple.

In the case of the Middle Temple, the evidence of such migrations is even more abundant. They commence there with the admission of Zacharias Smarthwaite on May 29th, 1660. In this case the entry concludes, "And hee gives for a fine, because hee formerly paid for his admittance into the Society of Lincolne's Inne four pounds and tenne shillings, but £1"; <sup>8</sup> the usual fine in such cases is subsequently £2 or £2 10s. The entries of admittance do not generally contain any statement as to the standing granted the entrant in the Middle Temple. But references to this occur in some cases in the Minutes of parliament.

<sup>1</sup> Pension Bk. I, 408.

<sup>3</sup> A.P. IV, 40, 60.

<sup>5</sup> *Ibid.* 116.

<sup>6</sup> *Ibid.* 128.

<sup>2</sup> Black Books, III, 52.

<sup>4</sup> *Ibid.* 88.

<sup>7</sup> *Ibid.* 41.

<sup>8</sup> Admittance Book, 17. At this time for a brief period the entries were made in English and not in Latin.



Thus, on November 21st, 1680, it is stated with reference to the admission of Mr. W. Hall from Gray's Inn, that having been there allowed two years in respect of time he had spent in Barnard's Inn, he was granted the same allowance for call to the Bar at the Middle Temple; <sup>1</sup> and on May 9th, 1684, there is the following statement with regard to an admittance of the preceding 13th of February :

"Mr. Danvers Hodges having translated himselfe to this House from Lincolnes Inn and it appearing by certificate that hee was called to the Barr there in Easter Terme, 1681, It is ordered that hee bee admitted *ad eundem* in this Society." <sup>2</sup>

It would be tedious to multiply instances, but one other case may be noticed owing to the position of the person admitted. On December 18th, 1667, Sir Francis Fane, Knight of the Bath, was admitted to the Middle Temple Society for a fine of £3 because he had previously been admitted to the Society of Gray's Inn as appeared by certificate of the 18th day of February, 1655.<sup>3</sup> During a period of twenty years from the month of November, 1667, there were 38 admissions from other Inns of Court to the Middle Temple. The largest number (20) were from Gray's Inn, but no less than 16 were from the Inner Temple, and only 2 from Lincoln's Inn. It is surprising to find that migration should have been so common from one Temple Inn to the other, for there were transfers also from the Middle to the Inner House.

Despite the ancient unwillingness to admit Irishmen, many gentlemen from Ireland were received as members of both the Temple Societies. They do not seem, however, to have always been desirable recruits, for when they departed without paying their debts (which not infrequently happened), there was great difficulty in recovering the duties they owed the Inn. Hence, on April 22nd, 1670, an order was made, at the Middle Temple, that no Irish gentleman should be admitted henceforward into

<sup>1</sup> E. 298.

<sup>2</sup> E. 334.

<sup>3</sup> Admittance Book (M.T.), 131. "Franciscus Fane balnei Miles filius et heres apparens Francisci Fane Militis balnei admissus est in Societatem Medii Templi specialiter; et obligatur unacum. Et dat pro fine quia prius fuit admissus in Societatem Grayes Inn ut apparet per certific. 18 die Februarii 1655—£3." This gentleman was the grandson of Thomas 1st Earl of Westmorland. He was a poet and the author of several dramatic pieces: see D.N.B. XVIII. 173.

Commons until he had given a bond with two sureties, one being an Englishman.<sup>1</sup> In May, 1676, it appeared from a Schedule presented by the Steward "that divers Irish gentlemen of this house have beene many years indebted for Commons and are gone into their owne countrey."<sup>2</sup> The Under Treasurer was accordingly instructed to take the most effectual course he could to get in the arrears, and in the following November a special person was employed for this purpose in Ireland.<sup>3</sup> With what success does not appear, but seven years later, on January 25th, 1683, the bond required of every Irish gentleman before his coming into Commons was conditioned to be made with two English sureties.<sup>4</sup> That the Inner House experienced similar difficulties is shown by a later entry in their Records, dated November 10th, 1692, regarding a list of debts due to the Steward from several gentlemen of the Kingdom of Ireland who had discontinued Commons above four years. The list included thirty-one names. It seems there was little hope of recovering the money in these cases, for the Steward was ordered to be paid out of the Treasury of the Society and a Committee appointed to examine the best way to reimburse the House.<sup>5</sup>

Notwithstanding all the former orders against admitting Attornies to the Inns of Court, and the Judges' orders of 1664, which again expressly prohibited such admittances,<sup>6</sup> there is still evidence of their presence in the Temple. Thus, on May 17th, 1667, at the Middle Temple, an account was ordered to be prepared against next parliament of the several chambers possessed by Attorneys and the former orders concerning them directed to be read.<sup>7</sup> The matter does not seem to have been discussed at the next parliament held May 22nd, but on June 7th there is the following entry :

"In pursuance of former orders it is unanimously agreed and soe ordered that hereafter noe Common Sollicitor or Attorney shal bee admitted of the house or into any chamber or part of a chamber without speciall order of their Mastershippes in parliament. The now builders in the church yard excepted."<sup>8</sup>

The exception related to fifteen new chambers then being built on ground staked out after the Great Fire of 1666, in the south

<sup>1</sup> E. 150.

<sup>2</sup> E. 208.

<sup>3</sup> E. 312.

<sup>4</sup> E. 331.

<sup>5</sup> B.T.O. III.

<sup>6</sup> I.T.R. III, 30 (Miscellanea).

<sup>7</sup> E. 113.

<sup>8</sup> E. 114.

portion of the old churchyard—the present Lamb Buildings.<sup>1</sup> No reason for the exception is given.

Eight years later another order respecting Solicitors was made at the Middle Temple, this time with reference to calls to the Bar.

May 14th, 1675, “ Ordered that noe person that doth practice as an Attorney or Common Sollicitor shalbee called to the degree of the Utter barr unles such person after he shall cease to practice as an Attorney or Sollicitor shall have continued the full time and performed the exercises required by the orders of this house And that noe importunity shall prevaile with their Mastershippes to breake this order.”<sup>2</sup>

That the Inner Temple also had a rule against calling Solicitors to the Bar appears from an entry in their Records dated June 26th, 1685, which states that Richard Owen, who had been refused call to the Bar upon the suggestion (apparently made without foundation) that he was a practising Attorney, be called *nunc pro tunc*.<sup>3</sup> A later entry in these Records, however, seems to suggest that the Inner House, while refusing to call Solicitors to the Bar, did not insist, as the Middle Temple did, that a gentleman who had been a Solicitor should afterwards keep full time in the House as a student before being called to that degree. This entry, which relates to the case of one Thomas Cooper, objected to as a practising Attorney, is in the form of a Bench table order dated February 10th, 1687, and reads as follows: “ That Mr. Thomas Cooper upon making it appear to the Table that he hath left of the practice of an Attorney be also called to the Barr.”<sup>4</sup>

It is in the reign of Charles II that the degree or status of King's Counsel first appears in the Temple Records. Not that the dignity was first conferred by that monarch, for on August 25th, 1604, his grandfather, James I, had appointed Sir Francis Bacon of Gray's Inn King's Counsel with precedence and pre-audience in our Courts.<sup>5</sup> This was the beginning of a new Order in the Law, but for many years such appointments were sparingly made. In only one other case was this status conferred by King James. On September 11th, 1607, Sir Henry Montagu of the Middle Temple, then Recorder of London (later

<sup>1</sup> E. 115.<sup>2</sup> E. 199.<sup>3</sup> B.T.O. I, 49.<sup>4</sup> B.T.O. II,<sup>5</sup> I.T.R. II, 6. For original Latin, see Rymer, XVI, 596.

Chief Justice and the holder of many offices of State), was granted "the place of one of the King's Majestie's learned Councill." <sup>1</sup> By Charles I this rank was more frequently given. On March 7th, 1625, Sir John Finch of Gray's Inn was by that King *Constituit Consiliarium suum ad legem*,<sup>2</sup> and in June, 1628, granted precedence immediately after the two ancientest of the King's Serjeants and the King's Attorney and Solicitor-General.<sup>3</sup> While on February 7th, 1626, William Denny, Esq., was appointed under the Privy Seal to be of the Counsel at law of our Lord the King *quamdiu se bene gesserit*.<sup>4</sup> Next followed the appointments of George Radcliffe, Esq., on November 25th, 1632,<sup>5</sup> and Thomas Levingston on July 31st, 1641. This last appointment was "per Regem," and is worded, *Constituit Thomam Levingston Armigerum unum Consiliariorum suorum ad legem durante bene placito*.<sup>6</sup> During the Commonwealth there could be no such appointments (though precedence at the Bar was granted by Parliament in certain cases),<sup>7</sup> but after the Restoration they at once reappear, and for the first time this new rank for Counsel is recognized in the Minutes of a Temple parliament. The earliest instance of this occurs in the case of Edward Turner of the Middle Temple, afterwards Speaker of the House of Commons for twelve years, Solicitor-General, and Chief Baron of the Exchequer. The entry (June 29th, 1660) reads as follows :

"It is also ordered that Mr. Turner being of the King's Majesties Councill Attorney to the Duke of York bee called to the Bench and to take precedency next to Mr. Attorney Generall and the Queen's Attorney, paying £50 according to former orders." <sup>8</sup>

The next case in the Middle Temple, June 5th, 1668, is that of Mr. Francis North.<sup>9</sup> This was the future Chief Justice and Lord Keeper (Guilford), and as a question of importance affecting the government of the Inn arose out of this appointment, it is necessary to deal with it at some length.<sup>10</sup> Unlike Edward

<sup>1</sup> State Papers James I, Vol. LX. fo. 72.

<sup>3</sup> Cal. St. Papers Dom. (1628), p. 181.

<sup>5</sup> *Ibid.* XIX, 432.

<sup>7</sup> *E.g.* to John Wilde, Samuel Browne, and Edmund Prideaux.

<sup>8</sup> E. 29.

<sup>2</sup> Rymer XVIII, 631.

<sup>4</sup> Rymer XVIII, 866.

<sup>6</sup> *Ibid.* XX, 517.

<sup>9</sup> E. 124.

<sup>10</sup> Siderfin (Reports) thus notes North's appointment: Easter Term 20 Car. II, p. 365. "M<sup>r</sup> North (mon contemp.) de Mid' Temple et M<sup>r</sup> Miller de Lincoln's Inn fuer fait de Councel del Roy et deign deins le Barrs."



Turner, who when created King's Counsel had been twenty years called to the Bar, North, at this time thirty-one years of age, was a Barrister of only seven years' standing. He owed the honour he thus received to the recommendation of the Duke of York, whose favourable notice he had attracted by his argument for the Crown before the House of Lords in the *King v. Holles and ōrs*, known as the case of the five members.<sup>1</sup> On being made King's Counsel he unsuccessfully claimed to be admitted to the Bench of the Inn, for the Benchers, who no doubt regarded him as a mere boy, objected to promote so junior a member of the House over the heads of others much his seniors in the Society. His brother and biographer, Roger North, who was not at the time a member of the Inn, represents the action of the Benchers as inspired merely by what he calls the hatred of an aristocracy to admit any to their number not of their own choosing.<sup>2</sup> They had, however, a much better case than that. From time immemorial the right of the Bench had been absolute to invite whom they pleased to join their number, no outside authority having any power to intervene in the matter. It had become the practice, however, to elect to the Bench members of the Inn dignified by certain offices, such as King's or Queen's Attorney or Solicitor, or Recorder of London. Mr. Edward Turner when so elected was not only a King's Counsel but also Attorney to the Duke of York. Such offices were strictly limited in number, and in making this concession the Benchers incurred no risk of having the Bench packed by gentlemen virtually appointed by a power outside the Inn. Mr. North held no such office at this time, and had no claim except his rank as King's Counsel, in respect of which alone there was, as yet, no precedent for his election to the Bench. To elect him might establish a dangerous one, for the King could as easily create twenty King's Counsel as one, and if all whom he so created must be invited to the Bench, its complexion might at any time be altered and

<sup>1</sup> A proceeding by Writ of Error in the House of Lords to reverse a judgment of fine and imprisonment, given in the King's Bench in 1629 against Sir John Eliot, Denzil Holles, and Benjamin Valentine for seditious speeches and assault in Parliament, they having with two others held the Speaker in his chair to prevent the House adjourning before a resolution was passed against innovations in religion and subsidies not granted by Parliament: see Howell's State Trials, III, 294, 334.

<sup>2</sup> Lives of the Norths, I, 150. Lord Campbell says the Benchers were offended by "the insolent airs which he assumed" (Chancellors, III, 442). Of this, which is at variance with what is known of North's character, there is no evidence whatever.

its independence destroyed by an exercise of the royal prerogative.

The defeated aspirant was not disposed, however, to sit tamely down under his rebuff. If he was young he did not lack cunning. He reported what had happened to the chiefs of the Courts at Westminster, representing that on his own account he would not have complained (which one may be permitted to doubt), but that the Benchers' conduct in slighting a person whom the King had chosen to honour was in effect an affront to his Majesty, which it was his duty to bring to the notice of the Judges. His tale was told to sympathetic ears, and he was comforted by the assurance that all would be well. Had the Judges communicated to the Benchers of the Middle Temple a strong expression of their opinion that the refusal to admit Mr. North to the Bench ought to be reversed, their action in so doing would have given no cause for surprise, for despite his youth his merit was conspicuous; but the course they adopted, according to Roger North, was far more drastic.<sup>1</sup> On the following day, he states, whenever a Benchers of the Inn rose in Court at Westminster to conduct his client's case, he was at once silenced by an intimation from the Bench that he could not be heard in the King's Courts until justice had been done to Mr. North by electing him a Benchers of the Middle Temple. It is needless to add that this remedy is represented as having been immediately effective, Mr. North being forthwith elected to the Bench and thereby establishing a precedent which ruled until other Benchers at a later date had the courage to contest the matter anew, and successfully vindicated their right to be the sole choosers of the persons to be admitted to their body.<sup>2</sup> From this time till about the year 1692 an appointment as King's Counsel seems to have been followed at once in the Temple by admission to the Bench, if the person so appointed was not already a Benchers. Other members of the Middle Temple Society thus elected Benchers were Sir Francis Winnington, Solicitor-General to the Duke of York, January 24th, 1672;<sup>3</sup> the Hon. Vere Bertie, January 23rd, 1673;<sup>4</sup> Sir Francis Withins, May 21st, 1680;<sup>5</sup> Roger North, October 27th, 1682;<sup>6</sup> Edmund

<sup>1</sup> Lives of the Norths, I, 50, 51. This account, written long after the event, should perhaps be accepted with some reserve.

<sup>2</sup> See *post*, p. 566.

<sup>3</sup> E. 177.

<sup>4</sup> E. 185. Son of Montague Earl of Lindsey; later a Baron of the Exchequer and Justice of the Common Pleas.

<sup>5</sup> E. 299. Later a Justice of the King's Bench.

<sup>6</sup> E. 318.

Saunders, November 24th of the same year ;<sup>1</sup> and Bartholomew Shower, May 25th, 1688.<sup>2</sup>

There were also numerous appointments to the rank of King's Counsel at the Inner Temple. Some of those thus honoured were already Benchers of the Inn, others were called to the Bench on appointment. The dates which follow are the dates at which the rank is first attributed in the Records of the Inn to the person named: Sir Edward Thurland, November 30th, 1666 ;<sup>3</sup> Sir John Trevor, October 25th, 1674 ;<sup>4</sup> Sir John King, Attorney to the Duke of York, October 30th, 1675 ;<sup>5</sup> Sir Thomas Hanmer, Queen's Solicitor, November 26th, 1676 ;<sup>6</sup> Sir William Dolben, Recorder of London, May 13th, 1677 ;<sup>7</sup> Heneage Finch<sup>8</sup> and Sir Robert Sawyer, October 28th, 1677 ;<sup>9</sup> Sir John Heath, November 7th, 1680 ;<sup>10</sup> Edward Herbert, November 5th, 1682 ;<sup>11</sup> John Osborn, April 21st, 1689 ;<sup>12</sup> Thomas Trevor, Queen's Attorney, on the same date ;<sup>13</sup> and Sir Nathaniel Powell, November 27th, 1691.<sup>14</sup>

The increasing number of appointments to this new rank raised questions of precedence in the Inns. For King's Counsel claimed by virtue of their dignity not only to be elected to the Bench but to take place there above others their seniors at the Bench who did not possess the same rank. Action was taken at the Middle Temple to meet this claim on February 8th, 1688, when a parliament enacted that no member of the Society not being the King's Attorney or Solicitor should henceforth be elected Reader or Treasurer or permitted to choose a Bench chamber, but in the order of his seniority from his being called to the Bench.<sup>15</sup> An order which they communicated to the Inner Temple and affirmed on two subsequent occasions.<sup>16</sup> In this matter, as will be seen hereafter, that Society soon followed suit.<sup>17</sup>

<sup>1</sup> E. 319 ; Later Chief Justice of the King's Bench.

<sup>2</sup> E. 362.

<sup>3</sup> A.P. IV, 11. Later a Baron of the Exchequer.

<sup>4</sup> *Ibid.* 67. Later Speaker and Master of the Rolls.

<sup>5</sup> *Ibid.* 73. <sup>6</sup> *Ibid.* 77.

<sup>7</sup> *Ibid.* 77. Later a Justice of the King's Bench.

<sup>8</sup> *Ibid.* 79. Later Solicitor-General and Earl of Aylesford.

<sup>9</sup> *Ibid.* 79. Later Speaker and Attorney-General.

<sup>10</sup> *Ibid.* 103.

<sup>11</sup> *Ibid.* 117. Later Chief Justice of King's Bench.

<sup>12</sup> A.P. V, 7.

<sup>13</sup> *Ibid.* 7. Later Solicitor-General and Attorney-General.

<sup>14</sup> *Ibid.* 23. <sup>15</sup> E. 367.

<sup>16</sup> I.T.R. III, 265 (Miscellanea) ; E. 501, 506 (November 7th, 1702 ; October 29th, 1703).

<sup>17</sup> See *post*, p. 554.

As might be expected, the Restoration gave a new stimulus to the observance of Christmas at the Inns, resulting, as of old, in occasional excesses by the younger members and disciplinary measures by the Benchers. At the Middle Temple it was now the settled policy of the ruling authorities to prohibit the keeping of a Grand Christmas or any gaming in the Hall.<sup>1</sup> Christmas keeping in a milder form, however, went on, and sometimes led to a renewal of the old disorders. Thus, at the celebration in 1661, a Lord of Misrule once more appeared upon the scene in the person of Master Lumley Thelwall, levying his rents not only in the Temple but in Fleet Street.<sup>2</sup> For the "dishonour, shame and scandall" thus occasioned the Benchers fined Master Thelwall 20 marks (£13 6s. 8d.) and ordered him to make restitution of the money and goods he had taken within a fortnight and not to lodge in any chamber of the House until he had done so; at the same time intimating that any repetition of the offence by any member of the Society would *ipso facto* entail expulsion. Trouble came again in 1670 and 1671, when, in defiance of the governing authorities, a gaming Christmas was set up, resulting in fines of £20, and on the latter occasion in the further penalty of expulsion.<sup>3</sup> After this harmony seems to have reigned in the Inn until 1683, when a new attempt was made at the Middle Temple to hold a gaming Christmas, and repeated with much violence in the following year. For this seven members were expelled the House.<sup>4</sup>

At the Inner Temple also the Benchers were active in suppressing Christmas disorders, and on occasions stopped all Christmas festivities in the House.<sup>5</sup> From the year 1664 the time-honoured appointment of Grand Christmas officers by the Benchers in parliament ceases. This, however, was the disappearance of the shadow rather than the substance, for, as already indicated, Grand Christmas in the original sense had long been a thing of the past.<sup>6</sup> The discouragement of the old keeping of Christmas nevertheless did not prevent humbler celebrations from time to time by those in residence during that vacation. The best information as to this comes from the Christmas Accounts which have been preserved at the Inner Temple.

<sup>1</sup> E. 35.

<sup>2</sup> E. 56.

<sup>3</sup> E. 154, 155, 168-170.

<sup>4</sup> E. 332, 334.

<sup>5</sup> *E.g.* A.P. III, 145.

<sup>6</sup> It is not possible to accept Sir William Dugdale's account of Grand Christmas at the Inner Temple in *Origines Juridicales* as a true description of customs prevailing when he wrote (1666). At best it seems but antiquarian lore. Mr. Inderwick in his *Introduction to I.T.R. III* has only a passing reference to it, and no existing records of the Inn seem to bear it out.



Sometimes on such occasions reciprocal courtesies were exchanged between the two Houses and Ambassadors appointed for this purpose. In the year 1667, when the juniors of both Inns were indulging in Christmas revelry the Ambassadors of the Middle Temple gave offence on some unspecified ground to the Inner House. For this an apology was demanded and duly given, after which it is pleasant to find a record of the Inner Templars' parliament—"Ordered that it is satisfactory and the antient amytie be renewed and continued."<sup>1</sup>

Perhaps the most remarkable Christmas Account is that of the year 1681, when thirty-two gentlemen under the Bar celebrated the occasion at the Inner Temple and kept their festivities going for thirty-four days, from December 17th to January 19th inclusive.<sup>2</sup> Expenses are set down for each day, though there are many others separately stated. The Controller was dignified by a plume of white feathers and another of black, which cost £8. Two gilt partisans cost £5, and there were twenty-eight coats and caps for the innwatch and one coat and cap for the outwatch which, at 16s. each, totalled £23 4s., while seventeen outwatchmen are entered at £11 8s. Coffee and chocolate are frequent items, and tea occurs sometimes. There are also 18s. for rails about the hazard table, 6d. for pipes, and 12s. for tobacco. The two Ministers who preached on Sunday, January 1st, received "each three guinees," and 6s. 6d. was expended on going to the Parsons to desire them to print their sermons. Christmas Day and December 31st were celebrated with no little noise, for "drummes and trumpetts" figure on the first of these at £11 16s. 6d., and on the second at £11 17s. 10d. On Thursday, January 12th, the gentlemen were evidently entertained by Nell Gwynn, for a sum of £1 is entered on that day for "sweet meats for Madam Gwuin." There are various small entries for casting boxes and payments to watermen for "dice pickt upp." £52 was spent on music independently of the trumpets and drums. But the most remarkable items are for dice and wine, these totalling in the first case more than £80, and in the second nearly £250. Certainly a liberal provision for thirty-two gentlemen under the Bar, even allowing for some guests. There is no record of any intervention by the Benchers on this occasion, but with young gentlemen prepared thus to

<sup>1</sup> Christmas Accounts Bk. 1667, December 31st and January 1st.

<sup>2</sup> Christmas Accounts Bk.: "An Account of the receipts and disbursements of the publick Christmas kept by the gentlemen under the Barr of the Inner Temple: A° R.R. Car. sedci. annoque Dni. 1681."

take advantage of the liberty conceded them, it is not surprising that on two other occasions about this time Chief Justice Pemberton had to be called in to restore the authority of the Bench,<sup>1</sup> and that in 1683 all Christmas festivities were stopped "because," as the Benchers in their order aver,

"the liberty formerly granted to the gentlemen of this Society in the time of Christmas intended only for a civil and moderate recreation hath for many yeares past degenerated into licentiousness and disorder to the great offence of Almighty God and the scandall and dishonour of this Society."<sup>2</sup>

In both Societies the principal entertainment days of the year were still the two Feasts of All Saints or All Hallows (November 1st) and Candlemas Day (February 2nd), called the Grand Days. On these occasions the wearing of gowns was specially enjoined,<sup>3</sup> for Judges and Serjeants, former members, were invited and regaled as honoured guests, a play usually being provided for their enjoyment in hall after dinner.

In the Inner Temple the Library seems to have been used as a reception room on these occasions, while in the Middle Temple the Parliament Chamber probably served for this purpose. The General Account Book of the former Society gives full information in regard to the plays acted on these special days in the Hall of the Inn, the name of the play being generally stated. The fee paid to the actors is now always a sum of £20 for each play. Sometimes the players are described as "His Majesty's Players" or "the Duke of York's Company." The plays thus performed in the Inner Temple Hall during the reign of Charles II included (*i.e.*) the following: The Little Thief, The Little French Lawyer, The Spanish Curate, Philaster, The Scornful Lady, and Rule a Wife and have a Wife, all by Beaumont and Fletcher; The Silent Woman by Ben Jonson; Love in a Maze by James Shirley; Love in a Tub by Sir George Etherton; The Committee by Sir Robert Howard; The Plain Dealer by William Wycherley; The Fond Husband by T. Durfey; and the Maiden Queen and Sir Martin Mar-All by John Dryden. All of these were comedies in five acts. The Maiden Queen was a favourite play of Charles II, and in it Nell Gwynn won an astonishing success as Florimel, a maid of honour. There is an account of this by Samuel Pepys:

<sup>1</sup> A.P. IV, 111, 121.

<sup>2</sup> *Ibid.* 130.

<sup>3</sup> E. 132, 171, 358.

"After dinner with my wife, to the King's House to see 'The Maiden Queene,' a new play of Dryden's, mightily commended for the regularity of it, and the strain and wit; and the truth is there is a comical part done by Nell, which is Florimell, that I never can hope to see the like done again by man or woman. The King and Duke of York were at the play but so great performance of a comical part was never I believe in the world before as Nell do this, both as a mad girle then most and best of all when she comes in like a young gallant and hath the motions and carriage of a spark the most that ever I saw any man have. It makes me I confess admire her." <sup>1</sup>

In the Middle Temple plays were also acted on these festival days, the same remuneration being paid there to the performers, who are sometimes described in the accounts as "His Majesty's" or "His royal Highness's" Comedians.

The Middle Temple Library continues to have a somewhat chequered history. Shortly before the Restoration James Fitzgerald, an Irish member of the Inn, succeeded Master Manley as Library Keeper.<sup>2</sup> He proved an unfortunate selection, and in January, 1665, was dismissed, having been absent two years without leave. Daniel Kerry,<sup>3</sup> the next Keeper of the Books, was a Herefordshire man, and seems to have given general satisfaction. Called to the Bar in 1670,<sup>4</sup> he still retained the office till his death in 1683.<sup>5</sup> His successor was Pawlett Barrow, who, however, resigned the office on call to the Bar in May, 1687.<sup>6</sup> Benjamin Goodwin, the next keeper, also a junior member of the Inn, proved careless and inattentive, and after much indulgent treatment was removed, and Sampson Skelton Broughton, a Barrister of eighteen years' standing, appointed to the place in February, 1696.<sup>7</sup> Prior to this, in June, 1693, a "Latin Bookseller" was employed to new model and catalogue the books.<sup>8</sup> Broughton gave general satisfaction, and his efficiency was rewarded by the salary being increased to £30 p.a.,<sup>9</sup> but his tenure of office was cut short by his appointment as King's Attorney-General at New York, and in November, 1700, the care of the Library was committed to a new keeper,

<sup>1</sup> Diary, March 2nd, 1667. In the Introduction to I.T.R. III, Mr. Inderwick has given an interesting resumé of the plots of these plays: see pp. lxx to lxxv.

<sup>2</sup> B. 475, 490.

<sup>3</sup> E. 91.

<sup>4</sup> E. 151.

<sup>5</sup> E. 330.

<sup>6</sup> E. 331, 354.

<sup>7</sup> E. 431.

<sup>8</sup> E. 399.

<sup>9</sup> E. 456.

Mr. Walter Williams, an ancient of the Utter Bar.<sup>1</sup> No doubt on account of the loss of books from the Library a liberal purchase of chains was made about this time. Six dozen were bought in January, 1699, a similar quantity bought and fitted in September, 1700, and two dozen more in November, 1701.<sup>2</sup>

There were many gifts of books to the Middle Temple Library in the years which followed the Restoration. A few of these may be noticed.<sup>3</sup> In 1661, Sir Robert Barnard, Serjeant-at-Law and a former Master of the Bench, gave Fitzherbert's Grand Abridgment and nine separate sets of Reports, including Coke's Reports (Parts 12 and 13), and those of Croke, Yelverton, Owen, Popham, and Bridgeman. In 1667 Bartholomew Hall, an ancient of the Inn, gave Lindwood's Provinciall Constitutions. In 1670 Thomas Mundy (Treasurer) gave a manuscript abridgment of the Year Books of Henry VIII and Henry VII, and of some of Edward IV. A generous benefactor was Elias Ashmole, the distinguished Antiquary, described in the *Liber Benefactorum* as "one of the Masters of the Barr of this Society." His gifts, made in 1664, 1672, 1675, and 1677, included many works on History and Antiquities, such as Sir Henry Spelman's *Glossarium Archæologicum* and *Concilia*; also *Decreta leges Constitutiones in re Ecclesia Orbis Brittanici*; Ashmole's own elaborate treatise on the Order of the Garter; Dugdale's *Baronetage*, *Monasticon Anglicanum*, *Origines Juridicales*, and *Antiquities of Warwickshire*; also Bracton in MS. written upon vellum. Many books were likewise given by Sir Bartholomew Shower, including Camden's *Britannia*, Howell's *History*, Franklyn's *Annals of King James and King Charles*, Stillingfleet's *Origines Britannicæ*, Townsend's *Historical Collections*, *Cases in Parliament upon Petitions and Writs of Error*, *History of the Council of Trent*, and Dugdale's *Summons to Parliament*.

To complete the story of the Middle Temple Library it may be added here that William Petyt (then a Benchler of the Inner House) gave to the Society in September, 1698, seventy-three quarto volumes of Tracts of the Times and other Miscellanies besides a large number of works chiefly historical, including (*i.a.*) The Works of Sir Thomas More, Strype's *Memorials of Cranmer*, Fuller's *Church History*, Coxe's *History of Ireland*, Harrington's *Oceana*, Tacitus and Thucydides in English, a Latin version of the Bible (printed in 1512) and "*Stultifera Navis* or the Shipp

<sup>1</sup> E. 477.

<sup>2</sup> M.T. Cal. 187, 189.

<sup>3</sup> For details, see *Liber Benefactorum*.



of Fools," wherein was shown the folly of all States, translated out of Latin into English by Alexander Barkley, Priest; an English rendering of Sebastian Brandt's *Narrenschiff* (a famous book in its day), with, however, important additions by the translator descriptive of follies to which his own countrymen were addicted. One other gift may be noticed: a set of the Year Books in seven volumes given by the Hon. James Bertie. These details will suffice to show that the former character of the Middle Temple Library as the home of general culture, and not a mere depository of Law, was being well maintained.

In 1697, when Francis Morgan was Treasurer, the Library premises were enlarged and freshly decorated.<sup>1</sup>

Writing forty years later, Maitland stated that this library then contained 3982 volumes in most branches of literature, but more especially in Law and Parliamentary affairs, adding, "Tho' this Library be none of the largest yet I am perswaded that it is of more Use to the Inhabitants of this great City and suburbs than all the other publick Libraries put together."<sup>2</sup>

Another matter of interest in the reign of Charles II was the erection of a new house for the Master of the Temple. The lodgings set apart for this purpose in the time of the Hospitallers had been granted by King Edward VI to Robert Keilwey, Surveyor of the Court of Wards and Liveries and a member of the Inner Temple.<sup>3</sup> Keilwey served as Lent Reader in 1548, and was subsequently Treasurer of the Inn.<sup>4</sup> Employed in various public capacities, he was also the author of Reports of Cases decided in the reigns of Henry VII and Henry VIII, first published in 1602. On his death this house passed to his daughter, the wife of Sir John (later Lord) Harrington, who conveyed it to John Roper, by whom it was sold in June, 1585, to the Benchers of the two Temple Societies in undivided moieties, each Inn paying £125. At this time Attorney-General Popham was Treasurer of the Middle Temple, and one of the vendees. From an entry in the Middle Temple Minute Book it appears that the transaction was initiated by Sir Thomas Bromley, Kt. (of the Inner Temple), then Lord Chancellor, and Sir William Cecil, Lord Treasurer.<sup>5</sup> The Benchers seem to have

<sup>1</sup> The following inscription being placed over the door: "Anno Domini 1697 Bibliotheca ornata et aucta Francis Morgan Thesaur.": *New View of London* (Hatton), 1708.

<sup>2</sup> *Hist. of London* (1739), 656. The M.T. Library now contains 60,000 volumes and nearly two miles of shelving.

<sup>3</sup> As to this house, see Worsley's Bk. (Ingpen), 70, 71, and 243.

<sup>4</sup> A.P. I, 41, 133; D.N.B. XXX, 311.

<sup>5</sup> May 12th, 1585, D. 175; also I.T.R. I, 334, 336, 337, 467, 468.

enlarged the building and thus provided some new chambers,<sup>1</sup> the rents of which were devoted to increasing the stipends of the Temple clergy. The house thus reconstructed was in the vicinity of the church, but its exact location is unknown. The site of the present house of the Master of the Temple was at this time part of the Master's garden. In 1661 Dr. Richard Ball was appointed Master, and three years later he obtained the permission of the Benchers (May 23rd, 1664) to construct for himself a new house in the garden by the church on the condition that after he ceased to hold his office it should be at the equal disposition of both Societies.<sup>2</sup> Probably each Inn contributed to the cost of building this house. The Inner Temple certainly did so, eventually assisting Dr. Ball to the amount of £200.<sup>3</sup> This Rectory had a very brief existence, being destroyed unfortunately a year after its completion by the Great Fire of 1666, as will hereafter appear.

<sup>1</sup> D. 223, 228, 233 ; Malcolm's *Londinium Redivivum*, 289.

<sup>2</sup> A.P. III, 175 ; E. 86. Dr. Ball began to build without the consent of the Inns, thinking apparently the freehold of the land was vested in himself as Rector of the church : E. 82.

<sup>3</sup> A.P. IV, 1, 2 ; Gen. Acct. Bk. II, fo. 88, 96.

## CHAPTER XII

### THE REIGN OF KING CHARLES II—*continued*

THE years 1665 and 1666 were tragic years for the citizens of London, for the one was the year of the Great Plague and the other that of the Great Fire. As usual in the case of infectious epidemics the members of the two Temple Societies sought safety in flight, when in the summer of 1665 the sickness which at first had increased by slow degrees began to assume alarming proportions.<sup>1</sup>

It does not seem to be noticed in the Temple Records before June 9th, on which date a parliament of the Middle Temple was adjourned to consider putting off the Summer Reading and breaking up Commons because of the increase of the sickness in and about London.<sup>2</sup> On the 11th, for the same reason, the Summer Reading of the Inner Temple was abandoned, and the Reader and his Attendants and the Vacationers discharged.<sup>3</sup> The conclusion of the Middle Temple deliberations is recorded on June 13th :

“In respect of the sickness and contagion of the plague increasing It is ordered that there bee noe Readings this Summer nor any vacacon for the attendance of any that have vacacons to serve but that on Saturday come seve night Commons be dissolved and the gates and passages betweene the Houses bee made up and that six watchmen bee appointed to looke to the House of whose allowance their Mastershippes will consider when they meete againe And their Mastershippes take it kindly that the Sub Treasurer hath voluntarily offered himselfe to tarry in Towne in attendance on the care of the House in the dangerous time and have therefore left all things to his care.”<sup>4</sup>

<sup>1</sup> Loimographia, Boghurst.

<sup>3</sup> A.P. IV, 6.

<sup>2</sup> E. 97.

<sup>4</sup> E. 97.

No further meeting of the Benchers was held until the following February, and information regarding the intervening events must be sought elsewhere than in the records of either Society.

The following extracts are from the Diary of John Evelyn : <sup>1</sup>

" July 16<sup>th</sup>. There died of the plague in London this weeke 1100. 23<sup>d</sup> died above 2000 . . . Aug<sup>t</sup> 8<sup>th</sup> died this week in London 4000 . . . 15<sup>th</sup> this week 5000 . . . 28<sup>th</sup> The contagion still increasing and growing now all about us I sent my wife and whole family (two or three necessary servants excepted) to my brother's at Wotton being resolved to stay at my house mysele and to looke after my charge trusting in the Providence and goodnesse of God."

Like Evelyn, Samuel Pepys also braved the sickness and stayed manfully at his post. Under the date, June 7<sup>th</sup>, 1665, when there was great heat, he mentions having seen for the first time infected houses marked with a red cross and the words, " Lord have mercy upon us."

" August 10<sup>th</sup> Home to draw over anew my will, which I had bound myself by oath to dispatch by to-morrow night; the Town growing so unhealthy that a man cannot depend upon living two days . . . 16<sup>th</sup> To the Exchange where I have not been a great while. But Lord! how sad a sight to see the streets empty of people and very few on 'change. Jealous of every door that one sees shut up lest it should be the plague." <sup>2</sup>

On September 4<sup>th</sup> he wrote to Lady Carteret from Woolwich:

" I have stayed in the City till above 7400 died in one week and of them above 6000 of the plague and little noise heard day nor night but tolling of bells; till I could walk Lumber Street and not meet twenty persons from one end to the other, and not fifty upon the Exchange; till whole families (10 and 12 together) have been swept away, till my very physician (D<sup>r</sup> Burnet) who undertook to secure me against any infection . . . died himself of the plague: till the nights are grown too short to conceal the burials of those that died the day before, people

<sup>1</sup> Edit. 1818.

<sup>2</sup> Diary, Edit. 1828.



being thereby constrained to borrow daylight for that service : lastly till I could find neither meat nor drink safe, the butcheries being everywhere visited, my brewer's house shut up, and my baker with his whole family dead of the plague." <sup>1</sup>

The close of the year 1665 saw the plague much abated ; but it still lingered on in the City, and the ensuing Lent Reading was abandoned by both Societies.<sup>2</sup> The Middle Temple Minute recording this is dated February 9th :

" Ordered in regards of the continuance of the sicknes that there bee noe Readings this Lent nor any vacacon for the attendance of any that have vacacons to serve But that Commons breake up on Saturday come seve night." <sup>3</sup>

As the sickness still continued in May, 1666, the Summer Reading was again given up on the 25th of that month,<sup>4</sup> and on June 29th, it was decided to shorten the Summer Grand Vacation.

" Lastly in regard of some continuance of the sicknes it is ordered that Commons shall continue in this House till Saturday come three weekes for the attendance of any that have vacacons to serve or will bring in exercises but that then Commons doe break up and be dissolved." <sup>5</sup>

In the Inner House, also, for the same reason, no Summer Reading was held.<sup>6</sup> The precautions thus taken seem to have been effectual, so far as the Societies were concerned, but another calamity was now impending which was destined to produce disastrous results in the Temple, and consequences which could not be evaded by the absence of the members from London. This was the Great Fire of 1666, which, sweeping over eighty-three parishes, destroyed two-thirds of the City, and was only finally arrested in the heart of the Temple. Here too as in the case of the Plague it is necessary to turn to other sources of information than the Temple Records.<sup>7</sup>

The fire broke out early in the morning of Sunday,

<sup>1</sup> Memoirs (Edit. 1828), V, 7, 8.

<sup>2</sup> E. 97.

<sup>4</sup> E. 101.

<sup>5</sup> E. 103.

<sup>2</sup> E. 97 ; A.P. 5, 6.

<sup>6</sup> A.P. IV, 10.

<sup>7</sup> For an account of the Fire, see Lord Clarendon's Life, Contin. II, 97 ; also Letters of a resident in the Middle Temple, Londinium Redivivum, IV, 73-82, and Diary of John Evelyn.

September 2nd, in a baker's house in Pudding Lane, some ten houses off Thames Street. The Lord Mayor (Sir Thomas Bludworth) who arrived on the scene before 3 a.m., at first regarded it lightly, and rejected a suggestion that some houses should be pulled down to stop its progress. The real mischief began when it reached Thames Street, where merchandise of the most inflammable kind, such as tallow, oil, spirits, and the like, was stored in abundance. Further, at this time wood was still the principal building material in London, which caused the houses themselves to be highly combustible, so that the fire soon extended to the whole street and neighbourhood. Dazed by the conflagration the citizens proved powerless to check its fury, and fanned by a violent gale from the east the flames spread far and wide over the City. So swift, says Lord Clarendon, was the advance of the fire, that those who went late to bed at a great distance from any place where it prevailed, were awakened before morning to find their own houses involved in the common conflagration. For a description of the scene which the burning City presented, recourse must again be had to the *Diary of John Evelyn* : <sup>1</sup>

“ 3<sup>d</sup> Sept! The fire continuing, after dinner I took coach with my wife and sonn and went to the Bankside in Southwark ”—he was then living at Deptford—“ where we beheld that dismal spectacle the whole Citty in dreadfull flames neare ye water side ; all the houses from the Bridge, all Thames Street and upwards towards Cheapside downe to the ‘ Three Cranes,’ were now consum’d. The fire having continued all this night (if I may call that night which was as light as day for 10 miles round about after a dreadful manner), when conspiring with a fierce Eastern wind in a very drie season ; I went on foot to the same place ; and saw the whole south part of the Citty burning from Cheapeside to ye Thames and all along Cornhill (for it kindl’d back against ye wind as well as forward), Tower Street, Fenchurch Street, Gracious Street,<sup>2</sup> and so along to Baynards Castle and was now taking hold of St. Paul’s Church to which the scaffold’s contributed exceedingly.<sup>3</sup> The conflagration was so universal and the people so astonished that from the

<sup>1</sup> Edit. 1818.

<sup>2</sup> Grace Church Street.

<sup>3</sup> St. Paul’s was at this time under repair.

beginning I know not by what despondency or fate they hardly stirred to quench it ; so that there was nothing heard or seene but crying out and lamentation running about like distracted creatures without at all attempting to save even their goods ; such a strange consternation there was upon them So as it burned both in breadth and length the Churches publiq halls, Exchange, hospitals, monuments and ornaments ; leaping after a prodigious manner, from house to house and streete to streete, at great distances one from ye other ; for ye heate with a long set of faire and warme weather, had even ignited the air, and prepared the materials to conceive the fire, which devoured after an incredible manner houses, furniture and everything. Here we saw the Thames covered with goods floating. All the barges and boates laden with what some had time and courage to save as on y<sup>e</sup> other [side] y<sup>e</sup> carts &c carrying out to the fields, which for many miles were strew'd with moveables of all sorts, and tents erecting to shelter both people and what goods they could get away. Oh, the miserable and calamitous spectacle ! Such as haply the world had not seene since the foundation of it, nor can be outdone till the universal conflagration. All the skie was of a fiery aspect like the top of a burning oven, the light seene above 40 miles round about for many nights. God grant my eyes may never behold the like, now seeing above 10,000 houses all in one flame : the noise and cracking and thunder of the impetuous flames y<sup>e</sup> shreiking of women and children, the hurry of people, the fall of Towers, Houses and Churches was like an hideous storme And the aire all about so hot and inflam'd that at last one was not able to approach it, so that they were forc'd to stand still and let y<sup>e</sup> flames burn on, which they did for neere two miles in length and one in bredth. The clouds of smoke were dismall and reach'd upon computation neer 50 miles in length. Thus I left it this afternoone burning, a resemblance of Sodom, or the last day. London was, but is no more ! ”

During four days the fire raged with unabated fury extending far beyond the City walls. Nearly the whole of Fleet Street was destroyed, and had not the wind dropped on the third day,

even Whitehall and Westminster must have been involved in the common ruin. Lincoln's Inn escaped through the falling of the wind staying the fire on the north side of Fleet Street at Fetter Lane.<sup>1</sup> The Inner Temple was not so fortunate. The narrow alleys and crowded houses of Whitefriars proved an easy prey, and soon ignited the adjoining chambers of the King's Bench Walks. Most of these being of recent construction were built of brick, and this circumstance combined with the open space in front of them checked the flames at this point. At the top of the Walks, however, older buildings adjoining Ram Alley proved more combustible, so that destroying Serjeant's Inn, the Alienation Office, and Fuller's Rents, the fire swept across to the recently built house of the Master of the Temple, and turning southwards demolished all the buildings which then stood on the sites now covered by Tanfield Court, Lamb Buildings, the Inner Temple Library, class-rooms, and parliament chamber. After the fire was believed to have subsided, it burst out anew in the Inner Temple on the fourth day, compelling recourse to the blowing up of some of the buildings to save the church and cloisters, as well as the Hall of the Society (part of which was burnt), from total destruction. Thus injury was done to Fig Tree Court and to part of the Round Church. In this emergency the Duke of York (since 1661 a Bencher of the Inn) gave energetic assistance, remaining all night on the scene to direct the measures taken to combat the flames.<sup>2</sup>

The fire occurring at a time when few of the lawyers were in residence, little attempt seems to have been made to save the contents of the burnt chambers or of the lodgings in Serjeant's Inn. Commenting on this and the consequent greater destruction, Lord Clarendon says: "So that, whatsoever was there, money books and papers, besides the evidences of many men's estates, deposited in their hands, were all burned or lost to a very great value."<sup>3</sup>

The Society of the Middle Temple were fortunate in escaping loss through this fire except at one point. The chambers owned by them which stood on the site now covered by Lamb Buildings, on the east side of the south portion of the churchyard, were entirely consumed.

<sup>1</sup> Not, however, without some loss, for the Society had to pay £100 to John Henthorne and Mary his wife, tenants of St. John's Head Tavern, in Chancery Lane, for "damage loss and hindrance sustained by pulling downe their house" for the preservation of Lincoln's Inn, "in case the late dreadfull fyre had approached soe neere unto it": Black Bks. III, 52.

<sup>2</sup> I.T.R. III, Intro. xiii.

<sup>3</sup> See Life, Continuation, II, 98.



In the face of such a disaster, it might have been expected that the Collegiate life of the Inner Temple would have been brought for a time to a complete standstill. But this does not seem to have been the case. Parliaments of the Inn were held as usual in the following October and November; a Reader with the usual attendants chosen; Auditors appointed of the Treasurer's Accounts; and even a new member admitted on the 5th of the latter month.<sup>1</sup> While on February 10th following, thirteen members of the Inn were called to the Bar.<sup>2</sup>

The Benchers' first care, however, was the rebuilding of the Inn. On October 28th, nine of their number were nominated to consider this, and on November 30th, a committee of six was appointed "to treat with any persons and settle all matters in reference to the rebuilding of the Society."<sup>3</sup> At the same time Master Edward Pecke was authorized to rebuild the rooms or chambers upon the soil allotted for the corner chamber of Tanfield Court, where his own chamber had been, and a licence was granted to three other members to rebuild in Fig Tree Court where damage had also been caused by the Fire.

On January 27th, heads of agreement were drawn up between the Society and Francis Phelips, a Benchler of the Inn, touching the newbuilding of the chambers and rooms called King's Bench Buildings, "lately consumed by fire."<sup>4</sup> These chambers faced on to the King's Bench Walks, and included the accommodation provided for the King's Bench Office. The new building was to be four stories high; no partner or sharer was to be imposed on the undertaker, but gentlemen who had chambers in the former building were to be preferred for the new chambers, Masters of the King's Bench Office and of the Crown Office being conceded a like preference. For this building a grant was made to Master Phelips, his Executors, Administrators, and Assigns, of the former site and of ground of the same width adjoining it on the south for a length of 30 feet. The interest was for three lives, the first two to be named within two years and the third by his will or other writing. Authority was also given him to grant the chambers in the new building to members

<sup>1</sup> A.P. IV, 10, 11. The Reader chosen on this occasion was Christopher Milton, brother of the poet and an ardent royalist. He was later (1686) a Baron of the Exchequer and (1687) a Justice of the Common Pleas. There was, however, no Lent Reading, for he read in the summer of 1667.

<sup>2</sup> A.P. IV, 16.

<sup>3</sup> *Ibid.* 11: Sir John Heath (A.G. of the Duchy), Sir Ed. Thurland, K.C., Ed. Pecke, Saml. Baldwin, Wm. Lister, and Richd. Powell.

<sup>4</sup> A.P. IV, 12-15.

of the Society, subject to admittance payments to the Treasurer, while he himself was admitted to the ground without fine. At the same parliament it was further resolved that other Masters of the Bench who built any other lodgings in the House should have the like liberties, benefits, and advantages in their respective buildings, and hold them on the same terms and conditions.<sup>1</sup>

The Master's house so recently built by Dr. Ball<sup>2</sup> had been consumed by the Fire. He offered to rebuild it and to lay out £400 in so doing. On February 10th, his proposal was accepted, and the following terms agreed with him. The building was to be of brick and a lease of the new house granted him for thirty-one years; the term to commence from the time of his death or leaving the Mastership, which event should first happen. Within three months thereafter, the house was to be offered and let by him or his representatives for the whole period of the term to the Treasurers of both Temple Societies at an annual rent of £40, to be employed as the Societies agreed. If the Treasurers refused to give this rent, the house was to be let by Dr. Ball or his representatives (as the case might be) at the same rent to the Master of the Temple for the time being, failing whose acceptance of it at the said rent the doctor or his representatives might let the building to any member or members of either of the Societies (but to no other) at what rate he or they might think fit.<sup>3</sup>

Other building operations undertaken at this time included chambers about Ram Alley, which lay north-east of the church, in the vicinity of Serjeant's Inn (Fleet Street);<sup>4</sup> the Alienation Office, also in that neighbourhood;<sup>5</sup> a Library and Moot Chamber, new built for the use of the Society by the Treasurer, Sir Heneage Finch, who freely gave £150 towards the charges of such building;<sup>6</sup> and certain shops in Tanfield Court.<sup>7</sup> These last were rebuilt at his own charge by a stationer, Thomas Williams, who had been a tenant of the Inn for twenty-eight years. He was granted a thirty-one years' lease at £6 per annum, on the condition that he should not assign them, without the licence of the Treasurer and Benchers, to "any person whatsoever other than such as shall use the same in the respective trades of a staconer, bookseller, scrivener, watchmaker or milliner."

<sup>1</sup> A. P. IV, 15.

<sup>3</sup> A. P. IV, 16.

<sup>6</sup> *Ibid.* 30. The total cost of the new library exceeded £590. £136 was spent on wainscoting and £32 15s. on painting (I.T.R. III, 53).

<sup>7</sup> A. P. IV, 28, 29.

<sup>2</sup> See *ante*, p. 504.

<sup>4</sup> *Ibid.* 17, 21, 22.

<sup>5</sup> *Ibid.* 22.

The former Alienation Office and the garden attached to it had been within the precincts of the Inn; it was now rebuilt at the charge of the King's Majesty, and apparently on a somewhat different site, for the new building is described as partly on ground belonging to the Society, while some portion of the other buildings now erected encroached on the former garden of that Office. To compensate for this, other ground of the Inn was added to that garden.<sup>1</sup>

Another Government office in the Inner Temple to which reference must be made was the Exchequer Office.<sup>2</sup> On June 11th, 1665, the following order had been passed by a parliament of the Inn:

"Whereas the Lord Viscount Fanshaw desired a peece of ground betweene the new building in Parson's Court and the old building called Fuller's Buildings, contayning in length 55 foote and in breadth 30 foote to build there a roome for the Exchequer Office comonly called the Remembrancer<sup>3</sup> Itt is att this parliament ordered that the said Lord Viscount Fanshaw shall have libertie there to build provided that hee build itt well and substantiall and that hee cover the same with lead and build itt noe higher than the bottome of the window of the first storie And to range in front even with the new building in Parson's Court And that the said Viscount Lord Fanshaw his Executors Administrators and Assigns shall quietly hold and enjoy the said new building from the Feast of St. Michael the Archangell next ensuing for and during and unto the full end and terme of fortie yeares from thence next ensuing and fully to be compleate and ended yielding and paying &c." a yearly rent of 40s.

The Order further provided that the building should be finished next term.<sup>4</sup> As the months which followed the making of this Order witnessed the terrible ravages of the Great Plague,

<sup>1</sup> A.P. IV, 22.

<sup>2</sup> Even in the days of the Templars the Exchequer had had an office in the Temple; see *ante*, p. 30, The Bishop of Ely's chamber.

<sup>3</sup> Lord Fanshaw was the eldest son of Sir Thos. Fanshaw who had suffered greatly for his loyalty to the Crown in the Civil War, and was rewarded with an Irish peerage at the Restoration. In 1665, he succeeded his father as second Viscount and in the office of Remembrancer. He sat in the House of Commons as M.P. for Hertford from 1661 till his death in 1674: see D.N.B. XVIII, 190.

<sup>4</sup> A.P. IV, 6.

it seems improbable this building was erected within the time specified. If built before the Great Fire of September, 1666, it must have been then consumed with the other buildings near the Master's House and reconstructed on the same site (under the liberty conceded as above) during the rebuilding of the Inn, for subsequent references to this office prove its later existence as a one-story building in the position now occupied by the Inner Temple Common Room. Thus placed, it gave its name to the open space in front of it now bounded on the north by Mitre Court Buildings (formerly Fuller's Rents), which became known as "Exchequer Court." As the building when completed did not include chamber accommodation, and was not erected at the expense of the Society, it is not surprising to find no further reference to it in the Minutes of the Benchers.

Returning to the general rebuilding of the Inn, on April 12th, 1668, an order was made that all members of the Society whose chambers had been burnt and who intimated to the Bench before the commencement of the ensuing Trinity Term their desire to rebuild, should have ground allowed them for the purpose upon the same conditions as had been granted to others, but that failing such intimation they should be debarred of such liberty and benefit.<sup>1</sup>

South of the King's Bench Building, the reconstruction of which had been undertaken by Master Francis Phelips, there had formerly been a building called Stapleton's Building,<sup>2</sup> and here Sir John Sparrow and six other members of the Inn, "all burnt interest persons," undertook, on February 11th, 1669, to rebuild; the new chambers to range with those of Master Phelips, but to be separated from them by an interval of 20 feet, the intervening space being no doubt intended to give passage way to and from Whitefriars. The frontage of this building was fixed at 60 feet in length, and the depth at 36 feet.<sup>3</sup> Sir John Sparrow, to finance the undertaking, borrowed £800 from Master (afterwards Sir Thomas) Robinson,<sup>4</sup> but proved unable to complete the building or repay the loan. Further, he absented himself and was not to be found. Accordingly, in June, 1672, the Benchers transferred the undertaking to Master Robinson with the right to nominate to each new

<sup>1</sup> A.P. IV, 23.

<sup>2</sup> *Ibid.* 43. See also I.T.R. II, 67 (May 3rd, 1612).

<sup>3</sup> A.P. IV, 32, 37.

<sup>4</sup> Prothonotary of the Court of C.P.s and Treasurer of the Inn, November, 1680, to August, 1683.



chamber for two lives. As finished by him the building included six chambers, two garrets, and two cellars.<sup>1</sup> Before the completion of this last building, the Benchers had authorized a further set of chambers to be built in extension of it down to the water-side. Their agreement for this further building, which was to be 92 feet long and like Sparrow's Chambers 36 feet deep, was made with another Bencher, Master Robert Hampson (later Serjeant Hampson), and confirmed June 10th, 1672. Hampson undertook to erect these chambers four stories high adjoining the Sparrow building, and in two conterminous blocks, each 46 feet long and containing two staircases.<sup>2</sup> Thus the line of chambers along the east side of the King's Bench Walks was carried down to the river wall.<sup>3</sup>

From an engraving in the possession of the Inner Temple Society, showing the appearance of the Inns after the above-mentioned buildings had been erected, it appears that the wide open space in front of them on the west, appropriately called the King's Bench Walks, was planted in its upper portion opposite Francis Phelips' buildings with six rows of trees running north and south with spaces or walks between them; while the lower part opposite the Sparrow and Hampson buildings was laid out in two portions, each of which ran down to the river wall. The first of these immediately in front of the new buildings was surrounded by a border of trees and contained two long plots of grass with a broad walk running north and south between them; while the second portion, lying further west and separated from the first by another broad walk, was likewise surrounded by a border of trees enclosing in the centre one long grass plot. The walks thus provided, with the grateful shade of their trees, must have made this part of the Temple in summer time highly attractive, and when it is remembered that the farther side of the river was as yet still undefiled by the slums of commerce, it is possible to appreciate how delightful the prospect must have been in fine weather, looking across the Thames from the river wall towards the distant Surrey hills. The engraving above mentioned is also of special interest in that it clearly

<sup>1</sup> A.P. IV, 49, 50, 52, 53.

<sup>2</sup> *Ibid.* 51, 54, 55.

<sup>3</sup> The several buildings above mentioned seem to correspond to the following numbers in King's Bench Walk as it now exists: The Phelips building to Nos. 3, 4, 5, and 6; the Sparrow-Robinson building to No. 7; and the Hampson buildings to Nos. 8, 9, 10, and 11. This leaves Nos. 1 and 2 unaccounted for, but at the time in question those staircases adjoining what had been Fuller's Rents formed the East side of Exchequer Court. They are three-story buildings and still exist.

shows the different stages as above detailed in the rebuilding of the chambers on the east side of the King's Bench Walks, the the Phelps chambers above the passage way to Whitefriars and the Sparrow Chambers and those of Master Hampson between that passage and the river all appearing (though in the case of the two latter conterminous buildings) as distinct groups.

The Benchers of the Middle Temple also seem to have taken steps with commendable dispatch to make good the loss sustained by their Society. At their first parliament after the disaster (October 26th, 1666), a committee of two was appointed to propose to the Inner Temple to view the ground in the churchyard where the chambers belonging to the Middle Temple had formerly been, and to consider the several interests therein and how both Houses might be accommodated in the rebuilding.<sup>1</sup> The former building had contained fifteen chambers, and the tenants of these petitioned for leave to rebuild. On November 23rd, their request was considered by the Bench, and two Benchers were deputed to treat with the Inner Temple for assigning the applicants ground to build on.<sup>2</sup> On February 8th, matters were sufficiently advanced to enable the Benchers to authorize the Treasurer to propose to the former tenants the following terms: The new building to be of brick and the work finished before Michaelmas twelvemonth; every builder to have in his chamber when rebuilt an estate for life and two assignments after, the first life being named within three months of the date fixed for completion or the actual finishing, which first should happen; no fine on first admittance for life, but 40s. to be payable on each assignment. The builders were also required to supply the Treasurer with a model or plan of the proposed building.<sup>3</sup> After this there was some delay, probably on account of the expenditure involved, for on May 17th (1667), the Benchers resolved that the House should join in the building and bear some part of the charge; a committee of six was also appointed to forward the work, and take care that the Society lost none of their ground, and that there were fifteen chambers or parts of chambers as before.<sup>4</sup> On the 22nd this committee was empowered to enlarge the building 6 or 8 feet in front, if they should see cause to do so, and in consideration of the assistance to be given by the Inn, it was ordered that three chambers be allotted to the House.<sup>5</sup>

On June 7th, a further decision is recorded fixing the height

<sup>1</sup> E. 104, 106.

<sup>2</sup> E. 107, 108.

<sup>3</sup> E. 110.

<sup>4</sup> E. 113.

<sup>5</sup> E. 114.

of the lowermost story at  $7\frac{1}{2}$  feet clear between beams and floor independently of the chambers to be built above it.<sup>1</sup> The final settlement is found in a Minute of February 12th, 1667, which sets out the values which had been placed on ten of the chambers in the new building. These ranged from £220 on the first floor south to £40 on the fourth floor north. The names of the occupiers are also stated, and include that of the Attorney-General, at this time Sir Geoffrey Palmer, whose chamber is described as "two pair of staires South" and valued at £170.<sup>2</sup> This building, which is still standing to-day, is first referred to by its present name in a Benchers' Minute of April 27th, 1683, authorizing Sir Francis Withins "to transferre his chamber in the Lamb Buildings."<sup>3</sup>

The King's Bench Buildings of the Inner Temple erected by Master Phelps, as above mentioned, were unhappily the scene of another conflagration in October, 1677, just one year after a committee of five Benchers had been appointed

"to consider of all necessary meanes to prevent any accidentall fires in this Societie and to view the engine and to report what further number of bucketts will bee necessary to bee added to the former [ones] now hung upp in the Hall."<sup>4</sup>

In a Bench Table Order of November 29th, 1677, there is a reference to this fresh disaster as "the late Fyre in the King's Bench Buildings."<sup>5</sup> The Accounts of the Inn for the year show various items of expenditure in connection with it. The help of adjoining parishes was obtained to extinguish the flames, for two of the entries are sums of £2 paid respectively to the engineers of St. Bride's and St. Dunstan's.<sup>6</sup>

The sufferers by this fire, who appear to have been numerous, soon petitioned the Benchers for leave to rebuild, which was duly granted in February, 1677, on the terms that the new building should be on the same foundation, 38 feet in depth and fronting to the Walks as formerly, and not more than three pair of stairs high, besides the ground chambers and cellars. Further at the back, next to Whitefriars, but at some distance from the new chambers, a wall of brick was required to be erected not less than 6 feet high. To each builder was conceded an interest for two lives and an assignment in the chamber rebuilt by

<sup>1</sup> E. 114.<sup>2</sup> E. 120.<sup>3</sup> E. 324.<sup>4</sup> B.T.O. I 10.<sup>5</sup> *Ibid.* 11.<sup>6</sup> Gen. Acct. Bk. II (1676-7).

him.<sup>1</sup> To meet the cost, all intending builders were required to deposit a sum of £50 with Mr. Blanchard, the goldsmith near Temple Bar, who had shortly before, at the sign of the Marygold, opened a business there soon to be known as Child's Bank.<sup>2</sup>

This second disaster had again destroyed the rooms in which the King's Bench Office was accommodated, and for additional security it was now determined to provide a separate building for this office on new ground to be allotted by the House.<sup>3</sup> Under the agreement made for rebuilding, the new office was to be constructed 80 feet long, 30 feet broad, and 11 feet high from floor to ceiling and covered with lead, allowing 9 lbs. to every foot.<sup>4</sup> The first intention was to make this building like the Exchequer Office a one-story edifice, and so reduce the risk of future fires, but on reconsideration it was decided to reimburse the Inn part of the outlay involved by constructing beneath the new office four ground chambers, the interests in which could be sold for the benefit of the House. The limit of height for the building was accordingly altered to 18 feet from the ground. Chimneys were allowed for these ground chambers and the office, but only on the following conditions: "Not any sea coles or other sorte of fewell whatsoever shall bee burnt or used in the said sixe intended chimnyes or in any or either of them save charcoles or billets."<sup>5</sup> The site selected for the King's Bench Office thus reconstructed was at the bottom of the Walks, close to and in line with the river wall.<sup>6</sup>

The fire which occasioned these further building operations is commemorated by an inscription which may still be seen over the doorway of what is now No. 4, King's Bench Walk, "Conflagratam An<sup>o</sup> 1677 Fabricatam An<sup>o</sup> 1678 Ricardo Powell Armiger. Thesaurar."

The misfortunes of the Society, however, were by no means at an end. In the following year occurred the great conflagration in the Middle Temple, also injuring the Inner House, and which will be described later; while on August 1st, 1683, another fire broke out in part of the newly erected chambers on the east side of the King's Bench Walks. It is not known how this fire originated, but servants were blamed for the extent of the damage done, some of them being absent from duty at the time

<sup>1</sup> A.P. IV, 81, 82. Master Phelps, the former builder, was now deceased, and the interest in a double chamber to which his infant son had succeeded was protected by Sir Robt. Sawyer joining in the new building on his behalf.

<sup>2</sup> A.P. IV, 82.

<sup>3</sup> *Ibid.* 82 (February 10th, 1677).

<sup>4</sup> *Ibid.* 82, 85, 86.

<sup>5</sup> *Ibid.* 85, 86.

<sup>6</sup> B.T.O. II (July 5th, 1691).



of the outbreak. As the November records of this year mention "the late fire which happened in Sir Thomas Robinson's Building" and "the petition of the gentlemen lately burnt out in the upper staircase of Serjeant Hampson's Buildings," it appears this fire was confined to the chambers now represented by Nos. 7 and 8, King's Bench Walk.<sup>1</sup> In combating it assistance was again rendered by the "Engeons" of St. Bride's and St. Dunstan's, as well as those of St. Giles and the Middle Temple.<sup>2</sup> This fire had a tragic *dénouement*, for Sir Thomas Robinson, Treasurer of the Inn, being resident in his chamber at the time, leapt from a window and was killed. He was buried in the Temple Church August 7th, 1683, at the upper end of the south aisle.<sup>3</sup>

Meanwhile an important addition had been made to the ground occupied by the Middle Temple Society, restoring to the ancient manor of the Knights part of the land Walter Stapledon, Bishop of Exeter, had seized and added to his own garden in the reign of Edward II.<sup>4</sup> Exeter Inn had remained in the possession of that See till the reign of Edward VI, when it was acquired by William first Lord Paget. Its subsequent history shows many changes in ownership.<sup>5</sup> First it was conveyed to the Duke of Norfolk, then to the Earl of Leicester, who devised it to his son Sir Robert Dudley, by whom it was sold to the Earl of Essex, the favourite of Queen Elizabeth. This nobleman rebuilt the mansion which became known as Essex House. Forfeited by his attainder, it was restored with other estates to his son by James I. The son, however, died without issue, and under his will and a partition agreement made with her nephew, Sir Robert Shirley, Essex House passed to the Earl's sister, the Duchess of Somerset, who devised it to Thomas Thynne Viscount Weymouth. From this nobleman it was purchased as a building speculation by Nicholas Barbon, who described himself as a "Doctor in Physicke." This gentleman was a son of Praise-God Barebone, and became a great builder in the Middle Temple. Trained as a physician, he had abandoned the profession of Medicine for the career of a building speculator. The Great Fire of 1666 gave him opportunities in his new vocation of which he took full advantage. Roger North,

<sup>1</sup> A.P. IV, 128, 132; B.T.O. I, 32.

<sup>2</sup> Acct. Bk. 1682-4.

<sup>3</sup> I.T.R. III, Intro. xxxix; Burial Register, Temple Church, 192.

<sup>4</sup> *Ante*, p. 76.

<sup>5</sup> As to the devolution of this property, see Master Worsley's Bk. (Ingpen), 90, note.

who was much concerned with some of the doctor's operations in the Temple, has left an account of him not very flattering and perhaps a little malicious. Barbon had erected for his own use a handsome house at the upper end of Crane Court off Fleet Street, and being thus a neighbour of the Templars, conversed much, says North, with those of the Middle Temple Society. Thus familiar with their habits and the accommodation they required, he concluded that a profitable deal might be made with the lawyers if he erected chambers convenient for their use on part of the gardens of Essex House. He accordingly opened negotiations in the year 1675 with the Benchers of the Middle Temple, and on June 4th a committee was appointed to treat with him.<sup>1</sup> Matters proceeded rapidly, for a Benchers' Minute states four days later that when Dr. Barbon has conveyed the inheritance of the ground to the Society, he shall have the right of disposing of the chambers erected by him for one life and two assignments; and on June 30th, articles of agreement were signed.<sup>2</sup>

At this time there was a Benchers' garden at the west end of Hall Court, below which, stretching to the river, lay the common garden of the Inn. Both gardens were bounded on the west by a wall which fenced off the Temple ground from the extensive gardens of Essex House. The transaction was finally carried through under a conveyance dated May 16th, 1676,<sup>3</sup> by which Barbon conveyed to the Society two several parcels of land with the several "stacks of buildings" he had erected thereon, the first being ground north of the Bench garden and west of Essex Court, with a one-staircase building on the west side thereof now known as New Court;<sup>4</sup> and the second a narrower strip of ground south of the Bench garden and adjoining the west side of the common garden of the Society with a two-staircase building. This site is now occupied by the modern Garden Court Chambers. It will be noticed that these several parcels of ground were separated from each other by the width of the Bench garden, and it might have been expected that the space between them in Essex gardens would also have been utilized for new chambers. That this was not done was due to an express instruction issued by the Benchers to the committee in treaty with Barbon to take care that no chambers were built on ground against the Bench garden westwards.<sup>5</sup> The fortunate results

<sup>1</sup> E. 200.<sup>2</sup> E. 201.<sup>3</sup> See Worsley's Bk. (Ingpen), 245, 246.<sup>4</sup> This building still exists.<sup>5</sup> E. 200.

of this jealous regard for preserving intact the amenities of the former Bench garden continue to this day.

The first express mention of "New Court" in the records of the Inn occurs on October 27th, 1676, in connection with a petition of John Lucas, a stationer, that a new shop opening into this Court might not be given to a rival in his trade.<sup>1</sup>

The Benchers' next care was the reconstruction of the chambers on the west side of Essex Court, now facing Barbon's new building, to bring them into conformity with it.<sup>2</sup> This work also was entrusted to the Doctor, and on June 29th, 1677, it was decided to extend these chambers in the rebuilding 7 feet further west into New Court.<sup>3</sup> The undertaking was carried out at the cost of the tenants of the building taken down, each of whom was reinstated in the corresponding place and story of the new building. A passage way was also provided through the new chambers into New Court with a stone arch at either end.<sup>4</sup> Constructed when Master Anthony Collins was Treasurer, above each arch may still be seen his initials, A. C., with the letter T. and the year 1677. The interest granted by the Inn to the builders in each chamber was one life and two assignments; the first life to be admitted *gratis* and a fine of 40s. to be paid on each assignment.<sup>5</sup>

Barbon's work in New Court seems to have been efficiently carried out. But his building on the new ground adjoining the lower garden was less satisfactory. There were early complaints that it overhung and had many cracks. A committee was appointed in the matter, whose report justified the complaints, and Barbon had to remedy the defects.<sup>6</sup>

Shortly before the Restoration the Benchers of the Middle Temple had decorated the interior of their Hall with twelve busts of the Cæsars. There is no reference to this in the Minutes of parliament, but the date is fixed by an entry in the Accounts Book of the Treasurers under the year 1658-9, recording the supervision by the Under Treasurer of the "setting up the Emperors' heads."<sup>7</sup> These busts were placed above the wainscoting between the windows, and above the Bench Table. The roof at this time was tiled, and this external covering seems to have required constant supervision, for there are entries year

<sup>1</sup> E. 211.

<sup>2</sup> E. 217.

<sup>3</sup> E. 218.

<sup>4</sup> E. 226.

<sup>5</sup> *Ibid.*

<sup>6</sup> E. 213.

<sup>7</sup> See p. 5. These incongruous ornaments (formed of plaster coloured to look like bronze) were evidently highly esteemed by the Society, for they retained their positions for 200 years, not being removed till 1860.

by year of repair work done upon it.<sup>1</sup> The tower which now stands at the entrance to the building is a modern addition erected in 1832. During the reign of Charles II, the entrance was surmounted by two floors of chambers, and in 1667, the Benchers decided to set up a clock "on the leades over the Hall Porch." It was placed upon the roof in a box-shaped wooden structure in the nature of a belfry. The external appearance of the Hall with this addition is well shown in an engraving by William Emmett executed in the year 1702, a copy of which is in the possession of the Society. A bell to be hung above the clock was also provided, with regard to which the Benchers stipulated that it should be as good as the bell of Lincoln's Inn "for mettall and sound," and not exceed in weight 500 lbs. As cast it in fact weighed  $400\frac{3}{4}$  lbs., and cost the Inn £26 2s. 6d. The expenditure on the clock was £45, and the contractor undertook to keep it in repair for an annual payment of 10s.<sup>2</sup>

The tiling of the roof was not, however, the only matter which caused the Benchers anxiety at this time. A hundred years had elapsed since the building was erected, and there were signs that the weight of the roof was insufficiently supported especially at the west end. The following particulars of work done in the year 1670 certainly point to a serious state of affairs :

"Making good ye decay at ye upper end of ye Hall and new working upon some parte of ye Bay Window at the end of ye Hall and scaffolding to and secureing 3 pendants in ye Hall to keepe ye rooffe from flying further out." <sup>3</sup>

Further repairs executed in 1673 and 1674 do not seem to have stopped the mischief especially at the south bay window,<sup>4</sup> and accordingly, in the month of January, 1676, a committee of five of the Bench<sup>5</sup> was appointed to consider what was necessary to be done for the support of the Hall and to report their opinions to the next parliament. The report they made is not entered on the Minutes, but it was evidently of a serious nature, for at a parliament held on May 26th, the committee about the Hall were desired to take another view of it (with workmen they thought the fittest to advise with) and "to report again on Saturday next come sennett after supper." <sup>6</sup> The further report.

<sup>1</sup> Treasurers' Accts. Bk. *passim*.

<sup>3</sup> Treasurers' Accts. Bk. 75.

<sup>5</sup> Messrs. Northey, Ettrick, Hoskins, Edward Smith, and Thursby.

<sup>6</sup> E. 205, 209.

<sup>2</sup> *Ibid.* 49, 59, 73 ; M.T. Cal. 172.

<sup>4</sup> *Ibid.* 95, 101.



was made and considered at an adjourned meeting of parliament on June 3rd, when, after much consideration had thereupon, it was ordered that

“ the defects and decays in the South West Corner of the Hall and South bay window bee well and substantially repaired this Summer . . . And that there may bee noe interrupcon in the proceeding of the said building but the whole Summer employed for the doing thereof effectually it is further ordered that Master Whitlock’s Reading bee put of (*sic*) till next Lent and that the Under treasurer doe forthwith give him notice of itt.”

Further it was referred back to the same committee to consider in what manner the said repairs should be done and the charge of them, with a direction to report their opinions to the next parliament.<sup>1</sup> A week later, on June 9th, “ the repairing of the window and forming the foundacon at the South West end of the Hall with all other thinges requisite thereunto ” was committed to the charge of Master Treasurer and seven other members of the Bench,<sup>2</sup> or any three of them “ that tarry in the towne, whereof Master Treasurer to bee one,” who were desired to see the same done substantially and for the honour of the House.<sup>3</sup> Which apparently they did, as there is no further reference to the matter in the Minutes of the Benchers. From details in the Accounts, however, it is manifest that the Hall continued to be under repair for some years after the summer of 1676. Mending both sides of the roof is repeatedly mentioned. The fireplace was repaired in 1681, “ the wainscott boards in the Hall ceeling from one end to the other ” apparently renewed in 1689, a “ new girder ” put in in 1693, and in 1698 workmen were employed in “ new ripping and repairing the Hall throughout.”<sup>4</sup>

It would be of interest to know what means were used in 1676 to increase the stability of the building.<sup>5</sup> Unfortunately no record seems to exist of the work then done, but comparing

<sup>1</sup> E. 209.

<sup>2</sup> Sir Francis Winington (Treasurer), Sir Peter Ball, and Messrs. Proctor, Northey, Wallop, Collins, Thomas Smith, and Offley.

<sup>3</sup> E. 210.

<sup>4</sup> Treasurers’ Aects. Bk. 151, 159, 178, 200, 214, 243, 278, 292. Further, in 1699 the roof seems to have been retiled : see E. 458.

<sup>5</sup> The tradition that Wren was consulted at this time finds no support in the Records of the Society ; on the contrary, the committee were directed “ to desire the assistance of Mr. Barker ” : E. 205.

Ogilby's plan of the Temple <sup>1</sup> with the later plan of 1732 annexed to the partition deed of that year, it seems that (*i.a.*) the fourth buttress on the south side of the Hall, which was next the bay window, was doubled in width some way up, to give the needed additional support.

At this time there were three shops at the west end of the Hall, one leased to the second Butler, another to the House joiner, and the third to John Leithwicke the gardener.<sup>2</sup> In May, 1677, Leithwicke was granted leave to "inlarge his shopp at the South West end of the Hall and make it uniforme with the Butterie," provided he did not build it too high. For this purpose he was given a new lease of twenty-one years.<sup>3</sup> Seven years later he petitioned for leave to heighten his chimney, apparently with the object of burning coal. But the Benchers at this time had a wholesome objection to coal smoke,<sup>4</sup> and the result of his application is recorded as follows :

January 23rd, 1684. "Upon the peticon of John Leithwicke their Mastershippes to avoid noysome smells and corrupcon of the Ayre thereby doe deny him to raise the funnell of his chimney for the burning of seacole ; And because of danger and blackening the Hall with smoake they further order that nothing but charcoale bee used in any of the chimneys of the shoppes at the West end of the Hall." <sup>5</sup>

If the Middle Temple Society suffered comparatively little in the Great Fire of 1666, twelve years later the members experienced a conflagration which had very different results for the Inn, which destroyed five Courts and reduced most of their chambers to ashes. There are two accounts of this catastrophe, one an anonymous description printed shortly after the event,<sup>6</sup> the other contained in the autobiography of Roger

<sup>1</sup> Map of London, 1677 ; no doubt printed from drawings made before the repairs to the Hall were executed.

<sup>2</sup> Each of these shops had a room over it : E. 369, 373, 404.

<sup>3</sup> E. 217.

<sup>4</sup> Cf. the earlier general order of October 31st, 1651 : "Noe seacole shalbe burned in any chamber or roome within this House by any gentleman or other that lodgeth or abideth therein upon paine of forfeiting the sume of ten shillings by everie gent. or other owner of such chamber or roome for everie such fire that shalbe so made contrarie to this order" : B. 381.

<sup>5</sup> E. 339. Modern Benchers seem to have had other views judging by the large and very active chimney now erected against the south side of the Hall.

<sup>6</sup> True Narrative of a sad and lamentable fire in Temple Lane (London, 1679).

North.<sup>1</sup> The fire broke out about 10 o'clock on the night of Sunday, January 26th, 1678, in Middle Temple Lane, next the chamber of Elias Ashmole.<sup>2</sup> Its origin is uncertain, but North attributed it to the carelessness of a link-boy. A keen frost prevailed at the time; icicles hung from the houses and the Thames was nearly frozen over.<sup>3</sup> Wainscoted and partitioned with deal boards, the chambers of the Inn were highly inflammable, and a dry wind blowing from the north-east caused the fire to spread rapidly, while the frost cut off the supply of water which might have served at the beginning to quench the flames. North, at this time a Barrister of five years' standing and a sufferer by the disaster, was an eye-witness of the scene, which he has thus described :

"I could perceive in the chambers at their first lighting a faint fire which was still more obscured by smoke and at last the heat melted the glass of the windows which let in the wind and that converted all the smoke to flame which came issuing at the windows with a noise and fury like so many vents of hell, and at length the doors and roofs firing, the cold tiles with the suddenness of the heat would make a strange noise crackling and snapping till all came down together and then such flakes of fire would rise and scatter down the wind as if all the sky were inflamed and so drop upon the actors as well as spectators and burnt their clothes on their backs; the horror of this fire was as great as could possibly be contrived had it been designed for wonder and no other instance in my observation or description of poet or painter ever came near it. And it was no less extreme on the other side for the cold was intense in the fiercest degree that our climate admits. The water froze in carrying and choked the engines with the ice that continually grew in it. Water was let down from the street, but froze and stopped its current." <sup>4</sup>

The conflagration seems to have caused consternation at Whitehall, for the Duke of Monmouth with the Earls of Craven

<sup>1</sup> *Lives of the Norths*, III, Ch. IV.

<sup>2</sup> Probably in the Chamber of Mr. D. Thornbury: see E. 302.

<sup>3</sup> *Luttrell's Brief Relation*, I, 7.

<sup>4</sup> *Lives of the Norths*, III, 41, 42. "After some search they found the pipes in Fleet Street and cut them, and turned the water down; but it froze as fast as it came and often stopped the spouts of the engines": *True Narrative*.

and Feversham,<sup>1</sup> and officers and soldiers of the Foot Guards hurried to the rescue and took a leading part in fighting the flames. When the fire reached the cloisters, the church and the Inner Temple Hall were in danger. In this emergency the young gentlemen of that Society, finding water fail them through the frost, are said to have supplied their engine with beer.<sup>2</sup> Another expedient, however, found favour with the Duke of Monmouth. This was the use of gunpowder to blow up adjoining buildings and so isolate the burning chambers. As might be expected, it was not employed without casualties, and although warning was given before each explosion, three persons lost their lives, and the Earl of Feversham sustained a fracture of the skull from which he only recovered after the operation of trepanning.<sup>3</sup> When the fire was raging in Elm Court great anxiety prevailed regarding the safety of the Middle Temple Hall, the burning of which, says North, "had been an irreparable loss almost to dissolve the Society." The open space of Hall Court protected it in front, but the chambers at its eastern end were only separated from Elm Court by the Temple Lane, and had the flames crossed that narrow space nothing could have saved it. Accordingly, decision was taken to blow up the Elm Court building as the centre of danger. But it had been stoutly constructed, and though shaken, withstood the shock of two explosions. Nevertheless, its solidity saved the situation, for a double party wall and a high stack of chimneys strongly built stopped the progress of the fire at this point.<sup>4</sup>

Elsewhere blowing up was more effectually carried out. It seems to have saved the church though some damage was done by it to the Round. In Middle Temple Lane it disposed of the Fine Office,<sup>5</sup> and thus stopped the fire reaching the Great Gate and Fleet Street, but dispersed records an Act of Parliament had to supply. The Inner Temple Hall was saved by the stone and brickwork of the Buttery and other offices. At the east end of the Hall, where there was no real danger, it was rashly decided to blow up the Library, which was done,

<sup>1</sup> Called in the Narrative Lord Durass, his former title. He had lately succeeded to the Earldom.

<sup>2</sup> Luttrell, *supra*. The Benchers long objected to pay for this beer. Eventually the brewer got £20 "in full satisfaccon of Ale and Beere lost in the Fire which happened in the year 1678": see Gen. Acct. Bk. (Sir R. Sawyer, Treasurer), February 16th, 1683, and B.T.O. I, 34.

<sup>3</sup> Narrative, *supra*.

<sup>4</sup> The present Elm Court is a new building at this point, dating from 1880.

<sup>5</sup> It was here that Lord Feversham received his injury.



says North, "with such a vengeance as endangered the murder of many people at great distance."<sup>1</sup>

The destruction wrought by this fire is shown by the area it affected, bounded on the south by the Middle Temple Hall and part of Elm Court, on the west by Palsgrave buildings in Essex Court, on the north by the Fleet Street Taverns and Hare Court, and on the east by the church and Inner Temple buildings. "All which places," says North, after the fire was extinguished, "lay in view of one another."<sup>2</sup>

The most serious loss from a national point of view was that which befell Mr. Elias Ashmole, who had stored at his chamber many of the antiquities bequeathed him by John Tradescant. These were destroyed with all his printed books and many coins, medals, and impressions of ancient seals, including those of the nobility and religious houses, and of the Great Seals of England since the Conquest. Treasures which had cost more than thirty years of laborious collecting.<sup>3</sup>

North seems to have regarded with little respect the chambers which were burnt and to have felt no regret at their loss. "Which truth to say," he writes, "were better burnt than left being for the most part such ragged deformed stuff." At the same time too much weight must not be given to this opinion; with his standard of taste he would probably have equally condemned the charming group of ancient chambers still happily preserved in Lincoln's Inn known as "Old Buildings."

In addition to the persons already mentioned, the Lord Mayor<sup>4</sup> and the City Sheriffs came to the assistance of the Societies during this fire. In the Inner Temple the intervention of the Lord Mayor raised a riot, for, regardless of his predecessor's experiences at Reader Goodfellow's Feast ten years before,<sup>5</sup> he brought his sword-bearer to carry aloft this symbol of his jurisdiction; a defiance of the Temple's claim of privilege which the young bloods of the House hotly resented. "Not owning," says North, "his authority there according to the old tradition among them and would want his help rather than connive at such a precedent to be made in derogation of their liberties."<sup>6</sup>

<sup>1</sup> Lives, III, 42, 43. In 1670, The Readers' Arms had been set up in the Library (B.T.O. I, November 25th and February 10th). These and the Books were removed to safety: see Gen. Acct. Bk. II, 197.

<sup>2</sup> Lives, III, 43.

<sup>3</sup> Athenæ Oxon. (Bliss), IV, 357.

<sup>4</sup> Sir Jas. Edwards: New View of London (1708), I, Intro. xxv.

<sup>5</sup> *Ante*, pp. 478, 479.

<sup>6</sup> Lives of the Norths, III, 39.

They accordingly beat the sword down and would not suffer it to be borne erect. Resenting this insult, his Lordship retreated to a tavern, where gossip afterwards alleged he salved his wounded feelings by first getting drunk and thereafter on his way back to the City stopping and dismissing a fire engine he met coming to the aid of the lawyers. The City Trainbands none the less rendered good service in the Middle Temple on this occasion, guarding the Templars' goods from depredations by the mob attracted to the scene of the disaster.

The Middle Temple Society had now before them a more serious task than any yet imposed on the Inn. As the Society had no money to finance the necessary rebuilding, it could only be carried out at the cost of the individual members, and for this purpose general agreement was required. Benchers whose chambers had been burnt maintained they were entitled to be reinstated at the expense of the rest of the Society in consideration of the sums they had paid, or would become liable to pay, as Readers. But this view did not commend itself to the younger members, and for a time there was open mutiny.<sup>1</sup> The rebels held a meeting in the "Apollo" Room of the neighbouring "Devil" Tavern, famous as the former rendezvous of Ben Jonson and his companions. Here they made themselves a parliament, elected a Speaker, and held much debate. But to no purpose, for the proceedings were too tumultuous for a practical result.

"One would have thought," writes North, "the Dove's Court was there, all speakers, no hearers contrary to our intent who by a parliament thought to preserve some sort of order and prevent a deformed assembly."

Another matter on which there was diversity of opinion was whether in the rebuilding the Inn should be remodelled or the old chambers reinstated merely. Eventually, says North it was agreed to slight all old foundations. Dr. Barbon, who saw in the Society's misfortune his own opportunity, approached the members, a committee was appointed to confer with him, and at length a scheme decided upon which met with more or less general approval, and was allowed by the Bench, who already a week after the fire had intimated the interest they were

<sup>1</sup> One proposal made for meeting the cost of these Bench chambers was to raise the money by selling the gardens and unoccupied ground. Fortunately it did not materialize.

prepared to grant in the new chambers to those gentlemen who participated in the outlay, viz. an estate for one life and two assignments.<sup>1</sup> Thus Barbon undertook to rebuild the Inn.

The determination "to slight all old foundations," of which Roger North speaks, resulted in two substantial changes. Formerly there had been a continuous line of chambers down the west side of Middle Temple Lane facing those of Hare Court and Pump Court as far as the Hall Court. West of this again a parallel line of chambers formed the east side of Essex Court; the space between these being crossed transversely in the centre by other buildings, which thus on the south formed a small square entirely surrounded with chambers, while the central space towards Fleet Street was a small garden bounded on the north by the Devil Tavern and other town buildings. In the reconstruction of Brick Court this arrangement was modified. The line of chambers down the west side of the Lane was not rebuilt, while the transverse building was moved further up the Lane and erected next the town buildings, the former garden space not thus utilized being added to the ground of the square formerly enclosed by the Brick Court chambers, so that the new Brick Court consisted, as it does to-day, of a central block of chambers parallel to, but set back some distance from, Middle Temple Lane, and two other blocks, one at either end of the first and at right angles to it extending to the Lane, but so placed as to leave access past them into Essex Court.<sup>2</sup> One advantage of this alteration was that the Lane could be increased in width at a point where its former narrowness must have proved inconvenient to the traffic passing along it. The other substantial alteration effected by the new building was in Pump Court and the cloisters, the former being increased in length and the latter in width by ground formerly occupied by Vine Court which was not preserved in the rebuilding.

Remembering no doubt the differences in which they had formerly been involved when the north side of Pump Court was rebuilt in 1629, the two Societies shortly after the disaster of this fire appointed a joint committee of five Benchers from each Inn to accommodate any points of dispute which might arise between them in the course of the rebuilding.<sup>3</sup> The Inner Temple elected not to employ Dr. Barbon, but to do their

<sup>1</sup> E. 282.

<sup>2</sup> E. 283 (February 10th and 12th, 1678); see also plan attached to Deed of Partition of 1732, Master Worsley's Book, Appendix I.

<sup>3</sup> E. 282.

own building. Their principal loss from the fire was in Hare Court, the west side of which in Middle Temple Lane required rebuilding. This by an act of their parliament (May 19th, 1679) they decided should be done in four staircases, consisting of cellars, ground chambers, and three pairs of stairs without garrets. In consideration of the Inn sharing the expense of rebuilding with the former tenants, certain of the new chambers were to be allotted to the Treasurer. To finance the undertaking £496 was borrowed from Sir Robert Sawyer, a member of the Inner House, the chambers about to be erected being mortgaged to him as security for the money he advanced.<sup>1</sup>

The chief difference between the two Societies in the course of the rebuilding arose in connection with the cloisters. In the year 1612, during the reign of James I, chambers three stories high had been erected over the cloisters, as already mentioned, by Master Francis Tate of the Middle Temple,<sup>2</sup> and the Benchers of that House were thus specially interested in the rebuilding. A model or plan prepared for the purpose by Dr. Barbon was approved by them,<sup>3</sup> but met with no favour from the Inner House, the Benchers of which desired to have the cloisters reinstated as before the fire; <sup>4</sup> whereas Barbon's plan proposed to abolish the cloisters altogether and substitute a solid block of buildings, thus gaining additional chambers for the Inn. Several conferences having failed to result in any agreement, the difference between the Houses became acute. Both Societies, anxious to save time seem to have commenced building operations which had subsequently to be abandoned, thus entailing some futile expenditure.<sup>5</sup> The state of feeling created is illustrated by an item of £3 entered in the Inner Temple Accounts for this year as paid "to the laborers for three severall tymes throwing in the earth upon the Middle Temple digging their foundacon in the Cloysters."<sup>6</sup> The Lord Chancellor at this time was Sir Heneage Finch, formerly Treasurer of the Inner House, and now Lord Finch of Daventry.<sup>7</sup> Another plan was prepared by Sir Christopher Wren, and eventually it was agreed to refer the whole matter to the Chancellor's decision. This resulted in a reasonable compromise, for while supporting the view that the cloisters

<sup>1</sup> A.P. IV, 90, 92.

<sup>2</sup> See *ante*, p. 291.

<sup>3</sup> E. 289.

<sup>4</sup> A.P. IV, 89.

<sup>5</sup> E. 305.

<sup>6</sup> Gen. Acct. Bk. 208.

<sup>7</sup> Later Earl of Nottingham. Roger North, writing long after the event, and whose recollection was evidently defective, speaks of him as Mr. Attorney Finch, though he had ceased to hold the office of Attorney-General on becoming Lord Keeper in November, 1673. In December, 1675, he was given the higher title of Lord Chancellor: see *Foss*, VII, 95.





TEMPLE CHURCH, 1800.

Exterior view, south side. Showing shops built against the Church and the Cloisters designed by Sir Christopher Wren.



should be preserved, he conceded at the same time larger building room above them by increasing their former width. His award, dated March 8th, 1680, was as follows :

“ That the said Cloyster should be built 70 ffeet long and 30 ffeet broad from out to out and three stories high over the Cloyster according to the within mentioned modell drawne by Sir Xtopher Wren, and that the Cloyster should reach unto Mr. Petitt’s East window, but not upon any part of the window and that noe tymber should be layd into the Walls of the church or into the Walls of Mr. Petitt’s buildinge for supporting the Cloyster but that part of the Cloyster should be supported by substantial foundations of Brick to be built against the Church Wall and Mr. Petitt’s Wall or by other substantiall supporters, soe as the said Cloyster may not weaken or endanger the Church Wall or Mr. Petitt’s buildinge.” <sup>1</sup>

Mr. Petyt’s chamber here mentioned was close to the west end of the church. The rebuilding was carried out in conformity with this award and completed during the Treasurership of William Whitelocke, second son of Bulstrode Whitelocke, former Commissioner of the Great Seal. The following inscription, which may be seen on the cloister buildings in three places, commemorates the disaster of the fire and the erection of the new chambers : “ *Vetustissima Templariorum Porticu Igne Consumpta Anº 1679 Nova hæc sumptibus Medii Templi extructa Anº 1681 Gulielmo Whitelocke Armº. Thesaurº.*” The old cloisters had been a favourite resort of students as a place in which to walk and debate their cases after supper, and Roger North mentions this circumstance as the chief factor influencing the Lord Chancellor in his decision to preserve this open space in the new building.<sup>2</sup> As renewed the cloisters still exist double their former width. They do not extend now, however, to the wall of the church, but terminate at the south-east corner of the modern Farrar’s Building on the north side of Pump Court.<sup>3</sup>

The payments to Dr. Barbon by members of the Inn for

<sup>1</sup> This award signed by Lord Finch is in the possession of the M.T. Society : Master Worsley’s Book, 61.

<sup>2</sup> *Lives of the Norths*, I, 25, 26.

<sup>3</sup> The figures 1825 with the initials of Master John Springett Harvey (then Treasurer of the Middle Temple Society), placed above the entrance to No. 2 staircase, indicate the year in which this alteration was effected.

chambers rebuilt by him were fixed to be made in the following manner :

“ One third part thereof at the time when the joysts of the first floore are laid and another third part thereof when the joysts of all the floores are laid ready to put on the roofe and the last third part to be paid at two payments, vid<sup>t</sup>—one moiety thereof when the staires are fully made and the floores sufficiently boarded and the other moiety thereof when the whole staircase is fully finished.” <sup>1</sup>

Roger North states that once the rebuilding of the Middle Temple had started the gentlemen of the Inn were active in the business and eager to have it completed ; and this finds confirmation in a reference in the Minutes to the work being carried on by candle-light.<sup>2</sup> The Doctor, however, according to the same authority, was apt to undertake more extensive contracts than he had the capital to finance, with the result that his building operations were often interrupted and delayed by default in payment of the workmen's wages. This appears to have happened in the present case, for under the date July 4th, 1679, it is minuted that the gentlemen concerned in the rebuilding of the north side of Pump Court have leave to go on by their own workmen, “ allowing to Dr. Barbon for melioracon according to his Articles and 40/- a square (*sic*) for his damage in not building.” <sup>3</sup> That the fault was not, however, entirely on the Doctor's side appears from the next Minute of July 8th, which records a complaint on his part that £1400 was due to him from gentlemen who had failed to make their first payment and that unless he received it and also the second payment due in the coming vacation he would be unable to cover the buildings. The Bench accordingly ordered that defaulters should lose the assignments granted them, and the Doctor have power to mortgage the chambers of those who failed to make their first payment, and no person be admitted to his new chamber until he had paid his proportion of the cost to Dr. Barbon with interest (when out of time) from the date at which payment should have been made.<sup>4</sup>

In the end Barbon's financial straits seem to have thrown

<sup>1</sup> E. 297 (May 21st, 1680).

<sup>3</sup> E. 287.

<sup>2</sup> E. 292 (November 26th, 1679).

<sup>4</sup> E. 288, 289.



the burden of completing the work on to the Inn, for North concludes his account of the matter as follows :

“Barbon wanting money materials were wanting or came in very thin. It was pleasant to see how intent the gentlemen were on their own concerns promoting the work and expostulating at every delay, nay, sometimes scarce forbearing violence to the workmen and to one another : For they were apt to quarrel to have bricks etc carried to their respective works ; sometimes much of it stood still which put those concerned out of all patience. And there was at length a fail (as always in Barbon's affairs) so that the House was feign to take upon them the winding up of the matter and the accounts standing out, whereby at last it was happily finished and in the state we see.”<sup>1</sup>

This outcome does not seem to have entailed, however, any unfriendly feelings between the Doctor and the Society, for on February 8th, 1683, when Roger North himself was Treasurer of the Inn, the Benchers in making an order that Dr. Barbon's Articles about building should be delivered to him to be cancelled at his request, also added, “And for a testimony of their Master-shippes good acceptance of his service to the Society that hee bee presented with one hundred Guinys” : a sum which the accounts show was duly paid.<sup>2</sup>

As already mentioned, the Benchers considered that Bench chambers which had been burnt ought to be reinstated in the new buildings free of charge to the Benchers to whom they had belonged. The new buildings of Dr. Barbon were designed to include fourteen Bench chambers,<sup>3</sup> and most of these seem to have been left unfinished through his failure to complete his contract with the Inn. To meet the difficulty thus arising the following course was adopted : two of these new chambers and another were ordered to be sold,<sup>4</sup> and grants from the money thus obtained of £60 a piece made to certain of the Benchers concerned, to wainscot and fit up their new chambers, any further necessary outlay for that purpose being directed to be repaid them from the Treasury of the House as the money

<sup>1</sup> *Lives of the Norths*, III, 60.

<sup>2</sup> E. 332 ; *Treasurers' Accts.* Bk. 176, 179.

<sup>3</sup> E. 290.

<sup>4</sup> E. 292, 294. Eventually only one of these new chambers was thus sold.

came in ;<sup>1</sup> while in other cases Benchers who had not yet served as Reader were left to bear this expense themselves, in the first instance, but allowed to deduct it later from the sum of £200 which they would become liable to pay when elected to that office.<sup>2</sup>

According to North, the Middle Templars got little sympathy from the general public under the losses they suffered from this fire, for lawyers, however necessary to the body politic, did not enjoy much popularity. As illustrative of the public feeling regarding them, he tells how a decrepit old woman trudging through the Temple one day when the new buildings were well advanced, stopped to look around her, and seeing scaffolding poles raised and men at work everywhere, expressed her sentiments in the laconic remark, "Well I see, ill weeds will grow fast."<sup>3</sup> With the public's lack of sympathy it is pleasing to contrast the sentiments of that ancient ally of the Middle Temple, the Society of Lincoln's Inn, as expressed in the following resolution adopted there, January 29th, 1678 :

"The Masters of the Bench of this Societie in Councell taking into theire consideracon the present sad condicion of the two Societies of the Inner and Middle Temples, occasioned by a dreadfull fire that hath bin latelie there, and that the Feast of the Purification doth now fall upon the Lord's Day and for other reasons them moveing doe thinke fitt and order that the said Feast Day shall not be solempnized in this Societie, at this tyme, by revelling and feasting, as formerly hath bin used."<sup>4</sup>

Mention has been made of the Benchers' garden at the west end of the Hall Court in connection with the ground conveyed by Dr. Barbon to the Middle Temple in 1676. Five years later, in 1681, a new work was carried out here in the construction of the fountain which still lends a special charm to this part of the Temple, and has given in "Fountain Court" a new name to the Benchers' former garden. The details regarding it which are now known come from Master Worsley's Book, where it is described as 21 feet in diameter and 4 feet deep. It was supplied with New River water which, when the pressure in the pipe was not reduced by water being drawn off elsewhere, rose to a

<sup>1</sup> E. 305.

<sup>2</sup> *Ibid.* ; also E. 308, 312 ; and see *ante*, p. 473.

<sup>3</sup> *Lives of the Norths*, III, 43.

<sup>4</sup> *Black Bks.* III, 124.

height of 30 feet. Digging the fountain and levelling the ground cost £23 4s. 5*d.*, and the necessary plumber work £90 18s. 10*d.* It was originally enclosed with wooden pallisadoe or palings set in quadrangular form, for which the carpenter was paid £127 11s. 6*d.* For the parapet wall between the Benchers and the lower garden, the bricklayer received £15 12s. 6*d.*, and the large sum of £493 11s. was expended on mason's work, but as this included the partial paving of Hall Court and the flight of stone steps down to the lower garden, it is not possible to say how much of the mason's bill is attributable to work done at the fountain. In the Benchers' garden at this time there were trees, and some of these, left undisturbed when the fountain was made, were enclosed within its pallisadoes. At a later date (1715) these pallisadoes were replaced by iron railings at a cost of £160 6s. 3*d.*<sup>1</sup>

One other building operation carried out in the Middle Temple during this reign remains to be noticed. The Great Gate at the top of Middle Temple Lane had escaped the fire of 1678,<sup>2</sup> and still stood as re-edified by Sir Amyas Paulet in the time of Henry VIII. It is not described in the Records as ruinous or in decay as other buildings occasionally are, but at the close of 1666 there appears to have been some proposal to take it down, for a committee of Benchers were requested to view it and report upon its rebuilding to the next parliament.<sup>3</sup> What report they made does not appear, but nothing further was done at that time. In 1670, Mr. Antony Ettrick of the Utter Bar presented a petition to the Bench touching the beautifying of the Gate, which was referred (November 25th) to Mr. Treasurer, but with what result is not stated.<sup>4</sup> This petitioner was elected a Bencher in 1672, and himself served as Treasurer of the Society in 1679.<sup>5</sup> The rebuilding of the burnt chambers after the great fire seems, however, to have prevented any steps being taken during that year to repair or reconstruct the Gate-house, and the matter is not again mentioned in the Minutes of parliament till February, 1683. Roger North had been chosen Treasurer on the 26th of the preceding October,<sup>6</sup> and on February 8th, it is minuted that the building of the Great Gate towards Fleet Street is referred to Mr. Treasurer "to doe therein as hee sees cause."<sup>7</sup> North, as his autobiography shows,

<sup>1</sup> Worsley's Bk., 106, 107; Treasurers' Accts. 406; see plate *post*, p. 568.

<sup>2</sup> The contrary statement in Herbert's *Inns of Court* (pub. 1804), following apparently an erroneous note added to Master Worsley's Bk., is incorrect.

<sup>3</sup> E. 111.

<sup>4</sup> E. 155.

<sup>5</sup> B. 398; E. 176, 279.

<sup>6</sup> E. 328.

<sup>7</sup> E. 332.

had made a study of Architecture, and no doubt counted with his fellow Benchers as an authority on a matter of new building. The first light on what he saw cause to do comes some four months later in a record of June 13th, granting leave to rest the timbers of a certain house on the Temple wall (as rebuilt) when the Great Gate and adjoining chambers were pulled down.<sup>1</sup> It thus appears that the building of Sir Amyas Paulet was doomed. In fact, the assistance of no less a person than Sir Christopher Wren had been obtained, and the new building was carried out by the Inn from designs prepared by him and under his superintendence. The Great Gate as thus rebuilt was provided with iron balconies intended for the use of the Masters of the Bench on State occasions. In regard to this matter, under the date November 21st, 1684, there is the following entry :

“Whereas Iron Balconies are to bee sett up at the house charge out of the chamber of Mr. Ettricke W. over the Greate Gate looking towards Fleete Streete their Mastershipps doe now order and declare that they reserve power to Mr. Treasurer for the time being and to all Masters of the Bench upon any solemnities or when they see cause, to resorte through the said chambers to the said Balconies and to use the same when and as they please.”<sup>2</sup>

The work must have proceeded quickly, for on February 6th, 1684—the day on which the reign of Charles II closed with his death at Whitehall Palace—there is the following further entry :

“Upon report of Mr. Treasurer that there rests due to Shorthose Mason £314 19. 10. ; to Lenn Bricklayer £170 ; to Woodstocke Carpenter £53 9. 2. ; for their severall workes done at the Greate Gate by Fleet Streete allowed by Sir Christopher Wren and Mr. North ; The same are allowed by their Mastershipps and to be added to the Schedule of debts ; and further time is given to the next parliament to perfect the said Schedule of debts for the remaining charge of worke still to be done at the said Greate Gate.”<sup>3</sup>

<sup>1</sup> E. 335.

<sup>2</sup> E. 338 : Mr. William Ettrick's chamber was on the first floor over the Gate (E. 340). He was the son of Antony Ettrick, who in 1670 had petitioned for the beautifying of the Great Gate ; and was himself later a Bencher (1699) and Treasurer (1711) of the Inn.

<sup>3</sup> E. 340.



Later, on June 19th, another sum of £172 12s. 5*d.*, also passed by Sir Christopher and Mr. North as due for work at the Great Gate, was added to the above-mentioned Schedule.<sup>1</sup> In the end, however, the total outlay on the Gate, including £21 15s. paid to the "Joyner for Middle Temple Gate and Wicket by agreement," as shown in the Accounts for this year, amounted to £1034.<sup>2</sup> Mr. North at the conclusion of his Treasurership was granted in lieu of a "perquisite" the uppermost chamber over the Gate with power to dispose of it in whole or part, with two assignments; <sup>3</sup> and while the work was still in progress the Society presented to Sir Christopher Wren twelve silver trencher plates (at a cost of £47 19s.), in acknowledgment no doubt of his services to the House in this matter and in that of the cloisters.<sup>4</sup>

It would be of interest to know what was the appearance of the old Gate-house thus taken down and replaced by Wren's work. Unhappily no drawing of it seems to be extant. Judging by the observations of Cavendish in his life of Wolsey, it was no mean structure.<sup>5</sup> At the time now reached, however, no merit it may have possessed as a type of Tudor domestic architecture could have availed to prevent its destruction, for the public taste in such matters was now dominated by the views of Sir Christopher Wren, whose devotion to classical models was intense.<sup>6</sup>

Interesting information regarding the old Gate-house comes from the records of some litigation between the two Societies after the rebuilding of Pump Court by the Middle Temple in the reign of Charles I. From the answer put in by Sir Nicholas Overbury, one of the defendants, who had known the Middle Temple for about fifty-two years, and the deposition of Richard Allen, a practical builder employed as an expert to examine the frame and manner of the building, it appears that it was then a large edifice constructed of brick in its upper part, but that the foundation was of stone and very ancient.<sup>7</sup> This points to the

<sup>1</sup> E. 343.

<sup>2</sup> Treasurers' Accts. Bk. 177, 179, 185; M.T. Cal. 181.

<sup>3</sup> E. 340.

<sup>4</sup> Treasurers' Accts. Bk. 176; M.T. Cal. 180.

<sup>5</sup> See *ante*, p. 140.

<sup>6</sup> So much so, indeed, that he is reputed to have declared that those ancient cathedrals which are to-day esteemed one of the chief glories of England were not worthy of the name of architecture, but mere barbaric heaps of stone.

<sup>7</sup> See I.T.R. II, Appendix VIII, p. 353. This evidence seems to have been directed to some question concerning the ownership of Middle Temple Lane and the liability to keep it in repair.

original Gate-house of the Templars (no doubt of great strength) having been replaced, at a much later date than that of the original building, by a less massive structure, no doubt the work of Sir Amyas Paulet, whose alterations seem to have gone much further than mere repair and decoration.

Wren's building is still the principal entrance to the Temple from Fleet Street. Across the front of it is an inscription recording the date of its erection: "Surrexit impens. Soc. M. Templi MDCLXXXIV," and above the entrance arch the Holy Lamb and flag (incorrectly rendered as the nimbus is wanting) with the figures 1684. It is little in harmony with the other buildings of the Middle Temple as they now exist, and, however indulgently judged, cannot be regarded as adding to the reputation of the great architect.

Under the letters patent of King James I, a fee farm rent of £10 per annum was still being paid to the Crown by each of the Temple Societies. Charles II included this rent in the jointure settled on his Queen Catherine of Braganza. Notice of this was received by the Middle Temple Society in February, 1666, and thereafter the rent was regularly paid by both Inns to the Queen's Receiver.<sup>1</sup> Some years later the Societies were approached on the King's behalf by Mr. John Lindsey, a London goldsmith and banker, with a view to the sale to them of this fee farm rent.<sup>2</sup> The matter is first noticed in a Middle Temple Minute of January 24th, 1672, which records an order that the King's Solicitor (then Sir Francis North) be desired to speak with Mr. Attorney-General (Sir Heneage Finch, Treasurer of the Inner Temple) about purchasing the fee farm rent of both Houses.<sup>3</sup> The transaction seems to have been carried through, first by the Middle Temple under a tripartite Indenture, dated November 14th, 1673, by which the Middle Temple rent was conveyed to Sir Francis North and others for the Society by Lord Hawley and others, the Trustees of his Majesty's Fee Farm Rents; John Lindsey being also a party to the deed.<sup>4</sup> While on the same date a deed of discharge was executed by which Lindsey acknowledged the receipt of £80, the price paid by the Society.<sup>5</sup> By the Inner Temple the purchase was effected somewhat later, under an Indenture dated February 29th, 1675, in which the consideration stated was £78 ls. 11d.<sup>6</sup> The interest thus purchased was that of the Crown only, and did

<sup>1</sup> E. 111; A.P. IV, 26.

<sup>3</sup> E. 177.

<sup>5</sup> Treasurers' Accts. Bk. 100.

<sup>2</sup> I.T.R. III, Intro. xxiii.

<sup>4</sup> Worsley's Bk. (Ingpen), 244.

<sup>6</sup> I.T.R. III, 466 (Appendix III).

not include the Queen's life estate. The rent, therefore, continued to be paid to her Majesty during her life, and was not finally extinguished till her death on December 31st, 1705.<sup>1</sup> Thereafter the two Societies became absolute owners of the Temple, but its division between them by agreed metes and bounds was not made until the year 1732.<sup>2</sup>

Hitherto little has been said regarding the Temple Church. So long as the New Temple remained the property of the Order of St. John of Jerusalem, the church fabric as well as the officiating clergy had been maintained by that Order. Upon the confiscation of their property in England by King Henry VIII, the maintenance of the building passed to the Crown by whom the duty seems to have been very indifferently discharged judging by the state of the church at the commencement of the Stuart period. In 1607 the Temple Societies themselves undertook some urgent repairs. These chiefly concerned the roof and pews. No details are available of the outlay incurred upon the building by the Middle Temple at this time, but having regard to the disbursements made by the Inner House for their half-share of the cost, the Societies seem to have expended between them about £150.<sup>3</sup> In the following year they continued the work at a further outlay of over £200.<sup>4</sup> In 1609, under the terms of the grant by which the Temple was conveyed to the Societies, they became responsible for the upkeep of the church, and additional repairs were carried out in that year, making a total expenditure for the three years of about £470.<sup>5</sup> Of the work done at this time among other items may be mentioned an iron grate placed about the monuments in the Round of the church, new iron bars and white glass for the windows, a great brass candlestick to hang in the choir, and two new Communion cups, which are still in use.<sup>6</sup>

The lax views which had prevailed about the building, and the little respect shown for it and the churchyard at the beginning of the seventeenth century, are illustrated by an order made by the Benchers of both Inns in October, 1611, prohibiting laundresses washing and drying clothes in the grave-

<sup>1</sup> For the last payment of this rent by the Middle Temple, see Treasurers' Accts. Bk. 330, Michaelmas, 1705.

<sup>2</sup> For partition deed, see Worsley's Bk. (Ingpen), 247.

<sup>3</sup> Gen. Acct. Bk. I, 17, 18.

<sup>4</sup> *Ibid.* 31, 32.

<sup>5</sup> *Ibid.* 40, 41. This is Mr. Inderwick's estimate: see I.T.R. II, Intro. xxix.

<sup>6</sup> Gen. Acct. Bk. I, 40, 48, 49.

yard, and directing the removal of a tailor's shop and certain sheds set up there without authority.<sup>1</sup> Myddleton, the clerk of the church, was the offender in the matter of the sheds; and a year later the Benchers of the Middle Temple are found expressing their disapproval of another of his proceedings, the storing of faggots and other stuff on the roof of the church.<sup>2</sup>

At the time now reached the fine west doorway was completely blocked up, the porch in front of it being used as a shop over which chambers had been erected many years before. The Middle Temple authorities had drawn attention to the ruinous state of these chambers in 1631.<sup>3</sup> Committees had been appointed the next year to consider further repairs,<sup>4</sup> and the Middle Temple had ordered for the purpose a tax roll of its members on which Benchers were to pay 40s. each, Barristers 20s., and gentlemen under the Bar 10s. What these repairs were does not appear, but that they were urgently required is shown by a direction that the materials for them were to be brought in at once that the work might go on as soon as convenient.<sup>5</sup> In 1634, there was further conference between the Houses on the subject of the church, the Benchers of the Inner Temple proposing (*i.a.*) the removal of certain buildings placed against it, which they alleged defaced it and obscured its lights. Finding the Middle Temple unresponsive as to this, they resolved to proceed themselves in respect of such of the said buildings as belonged to their own Inn, at the same time directing another conference to be held with the Middle Temple about other repairs to the church, and adding:

“Wherein yf they shall refuse to joyne then in regard of the present necessitie thereof this House is forthwith to proceede aloane therein untill some further course shall bee taken thereabouts.”<sup>6</sup>

Two years later both Houses were again co-operating in the work of repair, this time at the east end of the church and on a considerable scale, for the half-share of the Inner Temple included (*i.a.*) £182 19s. 10d. for mason's work, £17 18s. 11d. for iron work, and £6 9s. 9d. for new glass.<sup>7</sup> In 1637 came the bills incurred by Dr. Micklethwaite in making

<sup>1</sup> C. 23; A.P. II, 93, 94. Notice also the description of the churchyard as “a Common and most Noisome lestal”: A.P. II, February 10th, 1610.

<sup>2</sup> C. 44.

<sup>3</sup> E. 313; B. 66.

<sup>4</sup> B. 95; A.P. II, 202.

<sup>5</sup> B. 116.

<sup>6</sup> A.P. II, 218.

<sup>7</sup> Gen. Acct. Bk. I, 251.



the interior of the church conform to the Chapel Royal at Whitehall, expenses which, as already stated, the Benchers of the Middle Temple refused to pay because incurred without their sanction.<sup>1</sup> They continued, however, to co-operate with the Inner House in further extensive repairs during the years 1638 and 1639, all the items of this expenditure in the accounts of that Society being stated as a half-share of the actual outlay. How heavy that outlay was may be judged from two moiety payments for mason work of £154 7s. in 1638 and £216 in 1639.<sup>2</sup> In the year last mentioned the two Societies seem together to have expended considerably over £500 upon the church.

The next important outlay was in 1658, when more than £400 was expended chiefly on the Round described in the accounts as the Church Tower.<sup>3</sup> At the close of 1661, a petition was presented to the Bench of the Middle Temple by members of the Society, requesting that the seats in the church might be made more convenient and expressing a willingness to contribute to the cost this would entail. The Benchers thereupon directed their Treasurer (at this time Sir Geoffrey Palmer, Attorney-General) to confer with the Treasurer of the Inner House about new modelling the seats of the whole church, and in April, 1662, authorized a subscription roll for the purpose.<sup>4</sup> But there the matter seems to have rested, for no further reference is made to it at this time.

Fourteen years later, in the summer of 1675, John Playford, clerk of the Temple Church, sent to the Benchers of both Inns an address or memorial: "Most humbly informing your Master-shippes of the severall matters in the church which want speedy repayingring." From this communication it appears that the fittings of the church were in evil case, that the doors in the screen, which stood across the entrance to the choir, were decayed and broken; and that the pulpit was so rotten as to be in danger of falling. Further, a good new bell in "the steeple" was badly wanted, for the two which were there were "both crakt and uselesse," though capable, Playford suggested, of being recast as one, and so providing an excellent bell which could be heard in all Courts of both Societies.<sup>5</sup>

On receiving this address the Benchers of the Middle Temple

<sup>1</sup> See *ante*, p. 394.

<sup>2</sup> Gen. Acct. Bk. I, 267, 272A, 280; see also M.T. Cal. 152.

<sup>3</sup> Gen. Acct. Bk. I, 51, 52. The items for carpenter, plumber, and mason totalled £265 10s.

<sup>4</sup> E. 56.

<sup>5</sup> B.T.O. I, 9 (July 25th, 1675).

requested their Treasurer to confer with the Inner House "about the things informed by the Clerke of the Temple Church";<sup>1</sup> with, however, no immediate result. For in matters which required joint action delay was apt to be occasioned by diversity of opinion as to the course to be pursued. Eventually the Inner Temple Benchers agreed to join in "beautifying" the church, whereupon the Middle Temple authorities discussed and decided upon plans for new modelling the seats, expressing the opinion (*i.a.*) that the sides of the church should be left free of seats but wainscoted to a convenient height.<sup>2</sup> Before anything was done, however, the disastrous fire of 1678 diverted the attention of both Societies to other and more pressing needs. Thus it was not until 1682 that decisive action was taken on Playford's memorial. In that year Sir Christopher Wren (the Royal Surveyor-General) and other "able surveyors" were consulted, and their opinions obtained as to the state of the building and the cost of repairing and beautifying it. By these experts the Inns were advised that an expenditure of not less than £1400 was required for the purpose.<sup>3</sup> Aroused to the necessities of the case, both Houses now decided to proceed at once with the work, the direction of which they entrusted to Wren.

The available records of the Middle Temple supply little information regarding the work actually done, but fortunately full details appear in the General Account Book of the Inner Temple. The Middle Inn seems to have supplied its share of the cost from the Treasury of the House, while the Benchers of the Inner Temple had recourse to their favourite device of an aid roll on which Benchers, Barristers, and gentlemen under the Bar were taxed £3, £2 5s., and £1 10s. respectively. Their Treasurer, Sir Thomas Robinson, whose tragic death in the fire of August, 1683, has been already noticed, generously agreed to expedite the work by advancing the necessary money until these contributions could be collected.<sup>4</sup>

Instrumental music had been employed by the Templars in their services, and this practice seems to have been continued by the Hospitallers.<sup>5</sup> After the Reformation, however, the music in the Temple Church appears to have been only vocal, judging by the absence of any reference to an organ or other like instrument. Further, at the time now reached the choir does not appear to have been isolated from the Round of the church, though divided from it by a screen (probably of no great

<sup>1</sup> E. 201.<sup>2</sup> E. 218, 219.<sup>3</sup> A.P. IV, 113.<sup>4</sup> A.P. IV, 113, 116.<sup>5</sup> See *ante*, pp. 73, 126.

height) through which passage was obtained by doors at the sides and in the centre. The unsatisfactory condition of these doors was one of the defects to which the clerk Playford had drawn attention in his memorial of July, 1675.<sup>1</sup> The scheme of beautification on which the Societies now embarked included the addition of an organ, and this became the predominant feature in Wren's treatment of the interior of the building. The screen across the west end of the choir was entirely remodelled. The spaces above it in the side arches were blocked with plaster, so cunningly employed that the very existence of these arches was successfully concealed; <sup>2</sup> while the organ loft was placed above the portion of the screen which filled the lower space of the central arch, so that the instrument when in position closed the rest of that aperture. In this way the choir was completely shut off from the round walk or nave, and the view of the whole interior from the west end of the church, which to-day under happier auspices is one of its most attractive features, was entirely lost.<sup>3</sup> The walls of the choir were wainscoted to the level of the windows, and the floor, which the Templars had paved with tiles like those of the chapter house at Westminster, was covered throughout with diagonal slabs of black and white marble. No attempt seems to have been made to preserve or restore the original level of the flooring; on the contrary, quantities of earth were introduced on which to lay the new marble slabs, and this proceeding by shortening the visible length of the Purbeck pillars which supported the roof must have injuriously affected the inside proportions of the building.<sup>4</sup> Extensive use was made of whitewash and plaster. The Round receiving no light from the choir must have become a gloomy place, and Wren seems to have relieved the darkness he had created by whitewashing the interior at a cost of £20 17s. 6d., and £7 for the loan of scaffolding to carry out "the whitening."<sup>5</sup>

The Communion Table which during the Commonwealth had occupied a position in the centre of the choir had probably been

<sup>1</sup> B.T.O. I, 10. A screen here was probably of old standing. See order of 1582 as to keeping the doors of the choir to exclude from it women and strangers, *ante*, p. 198.

<sup>2</sup> Temple Church (R. W. Billing), 46.

<sup>3</sup> See Frontispiece.

<sup>4</sup> Account Bk. (I.T.), 1682-84, "carrying in earth to the church for the Mason to lay the marble stones £2 9. 10." The marble flooring on the I.T. side cost £100.

<sup>5</sup> Account Bk. (I.T.), 1682-84. "The Playsterer his bill for whiteing the Rounde and cupulo it being in the whole 1760 yds. @ 3d. per yd. comes to £20 17. 6. the moiety whereof comes to £10 8. 9. which we are to pay the M.T. paying the remainder."

moved some time after the Restoration to the east end of the church, though brought to the centre for administration of the Sacrament.<sup>1</sup> It was now placed permanently under the central east window where the high altar of the Templars had formerly stood. Here raised two steps above the level of the choir it was guarded by a handsome rail and banister.<sup>2</sup> This change was not effected without some debate in the Middle Temple; but on June 2nd, 1683, the Benchers declared themselves satisfied "in the placing of the Communion table where now it is."<sup>3</sup> Behind and above the table was erected a wooden screen or reredos rising some distance above the foot of the central window and thus partially blocking its light. This screen was adorned with four pilasters and two columns between these, with entablature of the Corinthian Order. It was also "enriched" with cherubims, a shield, festoon, fruit and leaves.<sup>4</sup> In the rearrangement of the seats the choir was divided longitudinally by three aisles, a principal or central aisle and two others which afforded passage way along the side walls of the church. There were also two transverse aisles crossing the others, one near the east end and one before the screen at the west end of the choir. In the spaces between these aisles the seats were grouped in square box pews; while the new pulpit was erected in the central aisle some way down the choir with a sounding-board suspended above it; both pulpit and sounding-board being decorated with carvings. The screen which carried the organ loft was similarly treated. Its appearance was described twenty-five years later by a writer in the reign of Queen Anne, as follows:

"The screen at the W. end of the Isles is as the Altar piece &c of right Wainscot adorned with 10 Pilasters of the Corinthian Order, also 3 Portals and Pediments; and the Organ Gallery over the Middle Aperture is supported with 2 neat fluted Columns of the Corinthian Order and adorned with entablature and Compass Pediment, and also the Queen's Arms finely carved; the Inter columns are large Pannels in carved Frames and near the Pediment on the S. side is an Enrichment of Cherubims and the carved Figure of a Pegasus, the Badge of the Society of the Inner Temple; and on or near the Pediment on the N. side, an enrichment of Cherubims and the Figure of a Holy

<sup>1</sup> E. 219.

<sup>3</sup> E. 327.

<sup>2</sup> New View of London (1708), II, 563.

<sup>4</sup> New View of London (1708), II, 563.



Lamb, the Badge of the Society of the Middle Temple; for though these 2 Houses have but 1 Church yet they seldom sit promiscuously there but the Inner Temple on the S. side and the Gentlemen of the Middle Temple Nd. from the middle Ile." <sup>1</sup>

This is the first intimation of the appearance in the Temple Church of the mythical horse which the Inner House had adopted as their armorial cognizance. To-day less appropriately it is represented many times on the ceiling where it prances opposite the Holy Lamb as if challenging it to combat.

The carvings on the pulpit and sounding-board seem to have possessed little merit, but those on the altar-piece and organ-screen were so finely executed that they have been attributed to that supreme master of the wood-carver's art, Grinling Gibbons.<sup>2</sup>

There seems to have been no coloured glass in the church at this time, white glass only being mentioned in the payments for glazing.<sup>3</sup> There can be no doubt that the monumental effigies which may still be seen in the Round church were originally resplendent with rich colours and gilding after the mediæval manner. Probably some of the original colouring was still visible in 1683, for Wren caused them to be repainted and gilded and enclosed them in a new high railing similarly adorned. There is little information as to the work done at this time to the exterior of the building. It was probably put into a general state of repair, but the mean buildings which encumbered its south side were not cleared away and the ancient west doorway remained blocked by the shop into which the porch had been transformed. In the matter of the bells effect was given to the suggestion made by John Playford, the clerk, in his memorial of 1675. The two defective bells were recast as one at a cost of £21 17s. 4d. This bell still bears the inscription then placed upon it: "Sir R. Sawyer A.G. t. Inner Temple: Sir Henry Chauncy t. Middle Temple; John Bartlet made me 1686." <sup>4</sup>

The work inside the church seems to have been carried out

<sup>1</sup> New View of London, II, 564.

<sup>2</sup> Temple Church (R. W. Billing), 46.

<sup>3</sup> To this there may have been one exception, for "Mr. Dutton the glasse painter" was paid £3 5s. "for mending and putting upp the King's Armes in the Church": Disbursements, Account Book, 1682-84. In the reign of James I the old glass had been removed and white glass inserted in its place, for which £26 9s. was paid: Gen. Acct. Bk. I, 48 (1610).

<sup>4</sup> Gen. Acct. Bk. 265; I.T.R. III, Intro. xli.

expeditiously, for it was sufficiently advanced to admit of the services being resumed on February 11th, 1683, when Dr. Dolben, Bishop of Rochester, officiated as preacher.<sup>1</sup> Wren's superintendence is a sufficient guarantee that the alterations and repairs were thoroughly executed on the lines laid down by him. But the changes he introduced were so flagrantly at variance with the spirit of that transitional Norman and Early English architecture of which the ancient Church of the Knights is so fine an example that the result must have been a mongrel monstrosity, which only the obsessions of the age could ever have tolerated.<sup>2</sup> Fortunately the whole of Wren's work on the interior of the building has been swept away. The expense to the Inns greatly exceeded the original estimate. Apart from the cost of the organ, the moiety borne by the Inner Temple was more than £950.

The story of the organ remains to be told. At this time there were two noted organ-builders in England, Bernhardt Schmidt (of German origin), commonly called Father Bernard Smith, and René, or Renatus Harris, born in France, though his grandfather had lived in England, and is said to have constructed the organ of Magdalen College, Oxford.<sup>3</sup> Smith was the King's organ-maker, and had built an organ for Westminster Abbey. He seems to have been approached on the subject of a Temple organ in 1682, and to have discussed the matter with the Treasurers of both Societies. But before any binding agreement was made with him the claims of his rival Harris to be builder of the new instrument were put before the Benchers. A consideration of these led to a difference of opinion, for while the Middle Temple still favoured Smith, the Benchers of the Inner Houses espoused the cause of Harris. Conferences and discussions between the Houses only accentuated the divergence of view and some acrimony seems to have been imported into the dispute. Both makers received permission to set up an

<sup>1</sup> After the service, the Bishop was entertained by the Societies at the Master's House. The following particulars of expenses incurred by the Inner Temple for their half-share on this occasion are taken from the accounts of the Inn for February 11th, 1682/3: Battalia Pie, Salad, tame Pigeons; 2½ doz. of best Pontack @ 14s.; 1 doz. bottles of best Canary, £1 4s.; 6 bottles of best Champagne, 9s.; Mum Ale and Tobacco, etc. Total £4 14s. 9d.

<sup>2</sup> On the Sunday following the reopening of the church, the Rev. John Standish, D.D., Chaplain in Ordinary to the King, preached a special sermon (afterwards published) with reference to the supposed beautifying of the edifice. His text, Gen. xxviii, 17, was more apposite after Wren's innovations than he or his audience probably realized, including the words: "How dreadful is this place!" I.T.R. III, Intro. xliii.

<sup>3</sup> D.N.B. XXV, 21.

organ in the Temple Church, so that the respective merits of each might be demonstrated by use in the building. Harris erected his on the south side of the Communion Table,<sup>1</sup> while Smith's was placed somewhere on the north side of the church.<sup>2</sup> In the tests which followed, Smith's organ was played by Blow and Purcell, and that of Harris by the organist of Queen Catherine, Giovanni Battista Draghi. These tests, however, proved a tedious business, for the rivals being under no time limit for completion of their instruments, kept altering and improving them against each other, so that there seemed to be no finality to the contest. As time advanced the competition ceased to be a merely domestic affair of the Temple. The whole musical world became the audience; the struggle assumed Homeric proportions, and the rival protagonists, each acclaimed by enthusiastic admirers, faced one another like a second Hector and Achilles on another plain of Troy. Nay, more, so strong did the feeling grow that some of the partisans were not above having recourse to nefarious tactics in aid of their particular champion, with the result that it became necessary to have the competing organs watched day and night lest either should be tampered with by too zealous upholders of the merits of the other. Thus Harris is found at one stage complaining to his friends of the Inner Temple of his crippling expenses, for (*i.a.*) "extraordinary charges of watchmen" which he declared reduced him to "great streights and inconveniences for want of money to supply his occasions." A complaint the justice of which they at once recognized by making him a loan of £100.<sup>3</sup>

Long before matters had reached this pass the Benchers of the Middle Temple had sought to bring the dispute to a speedy decision by adopting the following resolution :

"The Masters of the Bench at this parliament taking into their consideracons the tedious competicon betweene the two organ makers, about their fitting an organ to the Temple church and having in severall termes and at severall times compared

<sup>1</sup> B.T.O. I, 31 (June 13th, 1683).

<sup>2</sup> Mr. Macrory, in his valuable notes on the Temple organ, suggests Smith's organ was placed above the screen between the Round and the choir (Edit. 1911, p. 34). This appears to be an error, for a Minute of December 6th, 1687, refers to Smith's organ as "the organ now standing on the North side of the Temple Church," and states that he is to be paid "when the said organ is set up in the organ loft": E. 359.

<sup>3</sup> B.T.O. I, 58; II, May 14th, 1686. A year before the M.T. had advanced £100 to Bernard Smith: E. 343.

both the organs now standing in the said church as they have played severall Sundays, one after the other, and as they have lately played the same Sunday together alternatively at the same service ; Now at the suite of severall Masters of the Barr and students of this Society pressing to have a speedy determinacon of the said controversie and in justice to the said workemen, as well as for the freeing themselves from any complaints concerning the same, Doe unanimously in full parliament resolve and declare the organ in the said church made by Bernard Smith to bee in their judgments both for sweetnes and fulnes of sound (besides extraordinary stopps, quarter notes and other rarities therein) beyond comparison preferrable before the other of the said organs made by — Harris, and that the same is more ornamentall and substantiall and both for depth of sound and strength fitter for the use of the said Church And therefore upon account of the excellency and perfeccion of the said organ made by Smith and for that hee was the workeman first treated with and employed by the Treasurers of both Societies for the providing his organ and for that the organ made by the said Harris is discernably too low and too weake for the said Church their Mastershippes see not any cause of further delay or need of any reference to musicons or others to determine the difference But doe for their parts unanimously make choise of the said organ made by Smith for the use of these Societyes And Mr. Treasurer is desired to acquainte the Treasurer and Masters of the Bench of the Inner Temple with this declaracon of their judgments with all respect desiring their concurrence herein.”<sup>1</sup>

This resolution, when communicated to the Inner House, was naturally ill received, the Benchers of that Society declaring on June 22nd that they conceived themselves to be not well used in a resolution and determination being made in a matter which equally concerned both Houses without a conference first had with them ; that the same tended to a breach of mutual correspondence which ought to be maintained and preserved between both Societies, and that it was high time, and appeared to be absolutely necessary, that impartial judges and such as were the best Masters of Music should be nominated by both

<sup>1</sup> E. 342 (June 2nd, 1685).



Houses to determine the controversy between the two organ-makers, as to whose instrument was the best which they were ready and desired the Middle Temple to do in order to put a speedy end to so troublesome a difference.<sup>1</sup>

To this the Middle Temple Benchers replied next day, repudiating any intention of ill usage or disrespect by their former resolution, which they said only declared their own judgments and did not impose but requested the concurrence of the Inner Temple.<sup>2</sup> This explanation, however, did not produce any change of mind in the Benchers of the Inner House, who still declined to make choice of Smith's organ, and again pressed for the selection of impartial judges, the best Masters of Music and not members of either Society, to determine the controversy.<sup>3</sup>

On receiving this rejoinder the Middle Temple Benchers, as stiff in their own opinion, appointed a committee to state in writing the matters in difference "about the choise of an organ for the Temple Church," and desired them to attend upon the Lord Keeper therewith "as soone as may bee and humbly pray his Lordshippes determination thereupon."<sup>4</sup> The Lord Keeper at this time was Lord Guilford, formerly Sir Francis North. He was a lover of music and himself possessed some skill in the art. But he was now in feeble health, and died on September 5th following without giving any decision; if indeed he ever considered the matter. In November the Inner House again affirmed their decision to refer the dispute to impartial judges, Masters of Music and not members of either Society.<sup>5</sup>

Meanwhile, on the preceding 28th of September, the Great Seal had been confided to very different hands, and Lord Chief Justice Jeffreys was now Lord Chancellor.<sup>6</sup> Though endowed with a mind of extraordinary power and one of the ablest men who ever held that high office, his habitual intemperance was notorious, and a more unsuitable person to decide between the merits of two rival church organs could hardly be imagined. But the Middle Temple Benchers had committed

<sup>1</sup> B.T.O. II; June 22nd, 1685.

<sup>2</sup> *Ibid.* (November 26th, 1685); A.P. IV, 152.

<sup>3</sup> B.T.O. II. (June 24th, 1685).

<sup>4</sup> E. 344.

<sup>5</sup> A.P. IV, 152.

<sup>6</sup> It is amusing to notice how from the fact of this reference successive writers have credited Jeffreys with a special proficiency in music, of which there is no evidence whatever: see Woolrych (1827), 323; Lord Campbell's Chancellors (1845), III, 591; Foss (1864), VII, 242.

themselves to a determination of the difference by the Keeper of the Great Seal, and could hardly now go back upon the election they had made. Lord Guilford had been a member of the Middle Temple, but Lord Jeffreys was of the Inner House, and it might have been expected that the Benchers of that Society would now have fallen into line with the Middle Inn. This, however, they still declined to do, reaffirming, on February 3rd, their former resolution for the choice of indifferent persons to determine which was the best organ.<sup>1</sup> A fortnight later the Middle Temple, having settled the statement of their case to be laid before the Lord Chancellor, deputed a committee to wait upon his Lordship and invite his decision.<sup>2</sup> How it came about does not appear, for the Benchers' Minutes are silent on the subject, but in the end the Inner House waived their objection to a decision by a member of either Inn, and agreed to be bound by Lord Jeffreys' award, which was eventually given at the close of the year 1687.<sup>3</sup> What procedure was followed before the Chancellor, and what reasons actuated his decision, are not known, but he may be allowed the credit of impartiality, for he decided against his old Inn and in favour of Bernard Smith.

Thus ended what has been called the "Battle of the Organs." The victor put a price of £1300 upon his instrument, but that the Inns considered excessive, and he was forced to be content with the more moderate but not insignificant remuneration of £1000. The cost to each Society was thus £500 exclusive of the organ case, which was the subject of a separate contract.<sup>4</sup> On the Lord Chancellor's recommendation the unsuccessful competitor was given a solatium of £100 by each Society.<sup>5</sup> This taken alone would have ill requited him for his time and

<sup>1</sup> B.T.O. II (February 3rd, 1685).

<sup>2</sup> E. 349.

<sup>3</sup> The earliest intimation of an award having been made is dated December 6th, 1687: E. 359.

<sup>4</sup> E. 359. For a detailed account of the organ and its subsequent treatment, see Mr. Edmund Macrory's useful *Notes on the Temple Organ*, 3rd Edit. 1911. With regard to the statement that Lord Jeffreys gave the final decision in the organ contest, it is surprising to find the learned author committing himself to the following observations: "I have not been able to find anything in the books of either Society to corroborate this statement derived by Burney [*History of Music*] from a letter written to Dr. Tudway by his son"; for Mr. Macrory himself quotes part of the Benchers' Minute of February 17th, 1685, which records the instructions to the committee to attend the Lord Chancellor, and the Minutes elsewhere expressly state that the solatium to Harris was paid on his Lordship's recommendation: see E. 349, 359.

<sup>5</sup> E. 359.

labour spent in the contest, but besides disposing of his rejected organ to commercial advantage, he is said to have reaped from the orders which flowed in upon him through the advertisement he had received, a very substantial reward. A sum of £6 14s. 10*d.* was expended by each Society on curtains for the organ,<sup>1</sup> and in May, 1688, Mr. Francis Pigott was chosen first organist at a salary of £50 per annum, contributed jointly by the two Inns in quarterly payments as from the preceding Christmas; “Mr. Pigott finding and paying an able and sufficient blower.”<sup>2</sup>

Whatever the merits of the organ constructed by Renatus Harris the Societies have had no reason to complain of the choice which was thus made; and though added to and improved from time to time, Father Smith’s famous instrument is still the organ which under skilful hands discourses such delightful music in the Temple Church.

<sup>1</sup> Gen. Account Book.

<sup>2</sup> B.T.O. II, May 26th, 1688; A.P. V, 4; E. 362.

## CHAPTER XIII

### THE TEMPLE UNDER THE LATER STUARTS

THE twenty-nine years which elapsed between the death of Charles II and the accession of the House of Hanover include the reigns of James II (February 6th, 1684, to December 11th, 1688), of William and Mary (February 13th, 1688, to December 28th, 1694), of William III (December 28th, 1688, to March 8th, 1701), and of Queen Anne (March 8th, 1701, to August 1st, 1714). Marked by events of great importance in the political history of England as these reigns were—the Revolution of 1688, the Parliamentary settlement which followed it, the Union with Scotland, and the legislation which fixed the succession to the throne in the Protestant descendants of the Electress Sophia—they cannot be said to be of outstanding importance in the history of the Temple Societies, the domestic life of which pursued through them all the even tenour of its way undisturbed by the heat and turmoil of the public controversies of the times. It is therefore proposed in concluding this account of the Temple's story to treat them collectively as one period.

In later years little regard had been paid at the Inner Temple to the ancient rule that the office of Treasurer of the Society was an annual one. Edmund Prideaux, the Attorney-General of the Commonwealth, and Sir Heneage Finch had both been Treasurer for many years. After the Revolution of 1688, however, steps were taken to introduce a more regular practice, and on June 29th, 1691, provisions were enacted to govern the future devolution of the office. Under these it was to be executed by the Benchers of the Inn who had been, or were liable to be, Readers, successively in their turn according to their respective seniority at the Bench. Elections were to take place annually at the second parliament in Michaelmas Term, and no Treasurer was to be appointed a second year or time until all other Benchers capable thereof had first held and served in the office except in case of death or removal; in which cases the Benchers next in order to serve was to be appointed and



act for the remainder of his predecessor's year in addition to his own term. Further, to prevent any future claim to precedence by members who had obtained the status of King's Counsel, it was expressly ordered as follows :

‘Noe Counsell of their present Majesties or their successors or any other person whatsoever shall hereafter be constituted or made Treasurer but according to their seniority in time at the Bench of this Society except such of their Majesties Counsel as are now at the Bench and such as shall bee hereafter Attorney and Solicitor Generall to their Majesties or their successors who shall and are hereby intended to be capable of the said office of Treasurer of this Society (for one year and no longer) according to their precedence without regard had to their seniority anything in this Act contained to the contrary notwithstanding.’

By this order also the Treasurer's spending power was limited to £5, unless he had first obtained a Bench Table Order for the purpose. As a reward to him and for his encouragement in the careful attending and executing the office being obliged by it, as the order recites, to his constant attendance upon the service of the House during the whole Terms, and for perusing the several Acts and Orders of the House before they were entered, receiving and taking the several accounts of all sums of money received and paid out for the use of the Society and for divers other matters, he was allowed by the Society the sum of £100, and so proportionately for the time of his service, if he served less or more than a year, but no further or other recompense or allowance by reason of his service in the office. Finally, no Bencher of the Society except the Attorney- and Solicitor-General was to be capable of the office of Treasurer who had not been at the Bench for the space of at least three years.<sup>1</sup>

Four years later, questions having arisen as to the Treasurer's right to appoint officers and servants of the Society, when vacancies occurred, an order was passed reserving to the Bench Table the sole power of appointing to the offices of Under Treasurer, Steward, Chief Butler, and Head Cook ; such appointments when made being subject always to confirmation by the

<sup>1</sup> See A.P. V, 19. By order November 18th, 1699, no Treasurer was to receive more than four-fifths of his £100 before his Accounts had been passed : B.T.O. IV.

Benchers in parliament. To the Bench Table was also reserved the appointment of all other officers and servants in Term time, the Treasurer being conceded the right to appoint these only when vacancies occurred during vacations.<sup>1</sup> Further, on November 10th, 1697, it was also ordered that any Bencher of the Society who had not been in Commons two whole weeks in each of the two preceding terms before his election as Treasurer (unless he had some reasonable excuse for his absence allowed as such by the Bench Table), should be incapable of holding the office.<sup>2</sup>

At the Middle Temple, where the rule that the office of Treasurer could be held for one year only, dated from the close of Queen Elizabeth's reign, it was now also the practice to make the retiring Treasurer an acknowledgment of his services, usually by the grant of a chamber interest with authority to transfer it to some other member of the House and thus turn it to monetary advantage.<sup>3</sup> In November, 1687, when a chamber was not available for the purpose, this "perquisite," as the Records call it, took the form of a gift of £100 out of the Treasury of the Inn.<sup>4</sup> Here also the Treasurer's spending power was limited, but not so straitly as at the Inner House. He might spend £50, but not more, on any one work done in the Society, and if he exceeded that amount was liable himself to bear the overplus.<sup>5</sup> The claims put forward by King's Counsel elected to the Bench extended to other matters than the office of Treasurer. These pretensions also were dealt with by the Bench of the Inner Temple Society at their parliament held on June 29th, 1691, as follows :

"Whereas severall questions have arose concerning Benchers taking place at the Bench Table of this Society and their elecons of Bench Chambers Be it Enacted that every King's Councill that shall here after be called to the Bench of this Society shall take his place at the Bench Table and in all other publique places of this Society according to his seniority and time of being called to the Bench and not otherwise Except in case of their Majesties Attorneys and Sollicitors Generall who are to take place of all other Benchers of this Society next to the Treasurer and not otherwise And that noe King's Councill shall hereafter

<sup>1</sup> A.P. V, 40.

<sup>2</sup> *Ibid.* 48.

<sup>3</sup> E. 364; also E. 429.

<sup>4</sup> E. 357. *E.g.* Treasurers' Accts. Bk. (1658-1727), 177; also 205, 267.

<sup>5</sup> E. 357, 448.

have elecon of Bench Chambers that shall fall in this Society but according to such their seniority and place at the Bench Table as aforesaid Except such of their Majesties Councell as are now at the Bench and such as shall hereafter bee Attorney or Sollicitor Generall who as hereby declared shall have the same priority of elecon of Bench Chambers as the same shall fall according to their place of sitting at the Table.”<sup>1</sup>

In the following Michaelmas Term, with the object of excluding those Benchers from the benefit of Bench chambers who absented themselves from the Inn and took little or no part in the conduct of its business, another order was made at the Inner Temple on November 19th, enacting that for the future no Bencher should have a vote or election of a Bench chamber at any parliament of the Inn unless he had been personally present at the Bench Table and in Commons two several days at the least in each of the two precedent terms before such parliament except upon reasonable excuse offered for his absence and allowed by the Table. From the operation of this order, however, were exempted King's Counsel then at the Bench, future Law Officers who were Benchers of the Inn, and such other Benchers as might be members of the National Parliament.<sup>2</sup>

In 1688 voting by ballot was introduced at the parliaments of the Middle Temple, but apparently not without considerable opposition. Two orders deal with this. The first, dated February 10th, provided as follows :

“Also ordered after much debate had thereupon that upon any matter hence forward to bee proposed in parliament, if it shal bee demanded to bee put to the question by any Master of the Bench and the said mocon shall be seconded by another Master the said question shal be determined by the scrutiny or balloting box, which was presented to their Mastershippes at this parliament, till further order.”<sup>3</sup>

The second order, dated May 25th, continued the new practice despite evident opposition to it: “The order for the balloting box is againe confirmed after greate debate.”<sup>4</sup>

Some years later the Inner House also adopted voting by ballot in all matters relating to calls to the Bench. This was

<sup>1</sup> A.P. V, 19.

<sup>2</sup> *Ibid.* 21.

<sup>3</sup> E. 361.

<sup>4</sup> E. 362.

done by an order of October 31st, 1695, which directed a ballot-box to be prepared for the purpose,<sup>1</sup> and on May 13th, 1696, choice of four new Benchers was ordered to be made by ballot from twelve of the ancient Barristers.<sup>2</sup> The practice, however, was soon abandoned, for on November 16th, 1696, all orders concerning the ballot-box were repealed.<sup>3</sup>

Though at the Middle Temple control of the Inn and of all domestic matters affecting its members was left during vacation times in the hands of the Treasurer, the Benchers were expected to be in attendance and keep Commons in the House during Term time, according to the ancient custom. To check neglect of this duty an order was made on February 7th, 1689, requiring every Master of the Bench to be in Commons one whole week or two half-weeks in every Term; and this order was shortly after extended to Associates to the Bench.<sup>4</sup>

The old difficulty in securing payment of Commons is still in evidence and was made the subject of a special order at the Inner Temple on April 26th, 1703, which shows that even the Bench was in fault in this matter. Besides ordering schedules of the names of defaulters to be hung up on the screen in the hall, it directed the Treasurer to padlock six chambers, "two of ye Benchers two of ye Barr and two under ye barr who shall owe most of their respective degrees for Comons." Six days' notice, however, was to be given before applying this drastic remedy.<sup>5</sup>

In July, 1704, the Society entered into a new contract with their Steward regarding the providing of Commons in the House at weekly rates fixed as follows: for ordinary weeks, 8s. 6d.; for private Grand weeks, 11s.; and for public Grand weeks, 15s. Further, at the same time the great expense of wine was ordered to be lessened and the expense of oysters to be moderated.<sup>6</sup> Six months later contracts were also made with the Butlers and Cooks, who undertook to supply for a specified annual sum certain articles necessary for use in the Hall and Kitchen.<sup>7</sup>

The Romanizing efforts of James II revived in an acute form the old fear of Popery, and this no doubt explains an order made at the Middle Temple on January 26th, 1693:

"Also ordered that hence forward noe Barrister shal bee published for the compleating his said degree without bringing

<sup>1</sup> B.T.O. III.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> E. 375.

<sup>5</sup> B.T.O. IV.

<sup>6</sup> *Ibid.* (July 7th, 1704). On February 4th, 1702, the panierman had been amerced a mark "for providing ill oysters on Friday last."

<sup>7</sup> *Ibid.* (February 12th, 1704).



a certificate to Mr. Treasurer when he last received the sacrament in some Protestant congregacon to be signed by the Minister thereof." <sup>1</sup>

Seven years of membership were still required for call to the Bar ; <sup>2</sup> but calls of grace were common at both Inns, under which conditions as to time and exercises might be excused. <sup>3</sup> At the Inner Temple on November 24th, 1700, it was ordered that all gentlemen called of grace in that House should in future pay before such call a fine of 30s. for each term they wanted of sixteen terms in Commons. <sup>4</sup>

It is in the first year of Queen Anne that the modern term "Barrister-at-Law" first appears in the Temple Records. It occurs under the date April 15th, 1702, in an order made at the Middle Temple with reference to Bench chambers, "that noe bench chamber bee lett to any person that is not a Serjeant-at-Law or Barrister-at-Law members of this House without first having the consent of their Mastershippes in parliament." <sup>5</sup> This does not mean, however, that the new description had displaced the ancient form "Utter Barrister," for the formal record of call in both Societies continues to be a call to the degree of the Utter Bar. <sup>6</sup> As indeed it still is at the Middle Temple.

Though the practice of entering the Temple Societies from some Inn of Chancery has now almost died out, a few admissions to the Middle Temple from New Inn are still found ; and Readers continue to be appointed to the lesser Inns from both Houses. It is manifest, however, that the interest formerly taken in such Readings is on the wane, and that the duty is regarded with no enthusiasm, and often evaded, by those selected to discharge it, while the students who ought to attend the exercise are absent. In the case of the Middle Temple at the close of the century it seems to have become almost a settled practice for the Reader appointed for New Inn to discharge his duties by deputy, <sup>7</sup> and for the members of the Society

<sup>1</sup> E. 403.

<sup>2</sup> Middle Temple, see E. 460 (May, 1699) ; Inner Temple, see A.P. IV, 120 (1682) ; see also B.T.O. May 8th, 1699, June 5th, 1703.

<sup>3</sup> Middle Temple, see E. 349, 354, 366, 397, 414, 472, 481.

<sup>4</sup> A.P. V, 62.

<sup>5</sup> E. 487.

<sup>6</sup> See E. 507 (November 26th, 1703) ; also Inner Temple, A.P. V, 105 (November 12th, 1710).

<sup>7</sup> E. 444, 461, 473, 479, 484, 501.

who ought to accompany him to debate his cases to neglect to do so. Many orders might be cited in regard to this.<sup>1</sup>

The Records of the Inner Temple afford similar evidence of a falling away from the old system of learning. With three houses of Chancery to instruct the Benchers of that Society must have found the situation even more difficult to deal with. On May 26th, 1701, they passed a general order requiring all Readers to Inns of Chancery as soon as elected to forthwith undertake the exercise or be fined, and forbidding any to pretend to stand to be called to the Bar who had not attended such Readings as opportunity offered.<sup>2</sup> The fine was the not inconsiderable sum of £20,<sup>3</sup> but the frequency with which this penalty was subsequently incurred shows how little effect it had in promoting a revival of the old system.<sup>4</sup>

There are also continuing indications that life in the Inns is ceasing to retain its former collegiate character. On November 14th, 1698, the Benchers of the Inner Temple found it necessary to order that no gentleman should be allowed his vacation unless he were actually in the Hall at dinner at least two days in each respective week.<sup>5</sup> While at the Middle Temple on May 31st, 1700, the Bench on account of the small number of Commoners in Hall in Term time (whereby they said the Society was discredited and the price of Commons much increased) made it a condition precedent to call to the Bar that the candidate for that degree should have been in Commons for two years before call and two weeks in each term of that period.<sup>6</sup>

The changing conditions of the times do not seem, however, to have acted adversely on the membership of the Inns, the numerical strength of which was now greater than ever before. The Middle Temple appears indeed to have been full to overflowing, for the Benchers are found complaining that gentlemen are leaving the Society for other Inns of Court because they cannot obtain satisfactory chambers in the House.<sup>7</sup> Interesting light upon the number of members belonging to that Society at this time comes from an incident of which some account must now be given.

<sup>1</sup> See E. 488; also 383, 385, 398, 400, 426, 450, 463.

<sup>2</sup> B.T.O. IV.

<sup>3</sup> B.T.O. III, November 26th, 1693, November 28th, 1696; IV, November 27th, 1699, November 27th, 1700.

<sup>4</sup> B.T.O. IV, November 25th, 1701, *passim*, to November 27th, 1713.

<sup>5</sup> B.T.O. III.

<sup>6</sup> E. 473.

<sup>7</sup> *Ibid.* (May 31st, 1700).

In the year 1694 a serious attempt was made by some members of the Middle Temple Society to challenge the authority of the Bench. The trouble arose out of the charges fixed for Vacation Commons and the claim of the Commoners to throw a considerable part of the expense upon the Society as a whole. As usual, the rebels were in the wrong, and the Benchers in the end completely vindicated. The incident is of special interest, however, because the malcontents, forty-five in number, chose to appeal by petition to the Judges,<sup>1</sup> thereby causing the Benchers to deliver a detailed answer justifying their disciplinary measures. The origin of the trouble was the following order made on February 9th, 1694 :

“ In regard to the dearnes of all sorts of eatable provisions It is ordered that the Vacacon Barristers and gentlemen that keepe Commons shall till further order bee charged to pay eight shillings sixpence a weeke a man for their Commons And further ordered that the Surveyors and Auditors of the weekly expense shall not signe Commons at less than eight shillings sixpence a weeke a man nor put in Apparells above three pounds in any one weeke. But if the Surveyors and Auditors of the weekly expense shall signe or refuse to signe Commons weekly contrary to this order then the same shall and may be signed by any other Barrister and gentleman then in Commons And if all of them shall refuse or neglect to signe Commons weekly at the rates aforesaid then Mr. Treasurer is impowered and ordered to breake up Commons And every Vacacon Barrister then in Commons shall respectively forfeite his vacacon And for better notice that this order bee fixed on the skreene.” <sup>2</sup>

On June 22nd, 1694, this order was repeated with the modification that the sum of four pounds was substituted for three as the maximum amount which might be put in apparels for any one week.<sup>3</sup>

The results which followed appear in a later Minute of October 31st of this year :

<sup>1</sup> At this time, when domestic disputes arose in the Inns, the Judges who had formerly been members of the Inn concerned, were recognized as having a kind of visitorial jurisdiction. It was consultative rather than mandatory so far as the Benchers were concerned ; but any opinion expressed by the Judges was practically binding on the Bench.

<sup>2</sup> E. 404.

<sup>3</sup> E. 407.

“Whereas Mr. Charles Barlee and Mr. Robert Browne two vacacon Barristers Mr. Christopher Maine and Mr. Leckey Hill and other members of this Society have lately in a mutinous and disorderly manner not only disobeyed but torne downe from the skreene severall orders of parliament there sett up and published for the good government of this House And have in a riotous manner affronted and assaulted the Masters of the Bench in the Hall and parliament Chamber assembled and violently taken away and deteyned the House booke of publike Acts and Orders and broake open the Hall Kitchin and Cellar doores And also taken away the key of the Hall doore and some of the plate from the officers and sett orders of their owne contriving upon the skreene in the Hall and other places in Terme time and otherwise misbehaved themselves to the ill example of all the members of this Society and also have most outrageously broken their Majesties peace in the matters aforesaid Their Mastershippes having this day fully heard what Mr. Charles Barlee Mr. Robert Browne and Mr. Christopher Maine could respectively say for themselves touching the misdemeanours and disorders aforesaid and finding them to bee chiefe promoters and actors in the same; And Mr. Leckey Hill not appearing but his offence and misbehaviour in the House and elsewhere being notoriously knowne It is ordered that the said Mr. Charles Barlee, Mr. Robert Browne Mr. Christopher Maine and Mr. Leckey Hill for their said severall offences and misbehaviour bee and are expelled this Society And that their severall chambers be seized to the use of the House.”<sup>1</sup>

Thus expelled, the delinquents had recourse to the Judges. At this time only two of the Judges were former members of the Middle Temple, viz. Sir George Treby, Chief Justice of the Common Pleas (appointed May, 1692), and Sir Nicholas Lechmere, a Baron of the Exchequer (since May, 1689). To them accordingly the complainants presented their petition praying that the Treasurer and Masters of the Bench of the Middle Temple might be summoned before their Lordships to show cause why the grievances complained of should not be redressed for the common good and peace of the Society.

<sup>1</sup> E. 410.



Though the trouble had arisen from the Benchers' recent orders regarding Commons, the petitioners, who described themselves as "the Barristers and Students of the Society of the Middle Temple," took advantage of the occasion to raise wider issues and make a general attack upon the government of the Inn. Their grievances were set forth under nine heads or charges. They complained firstly of the penalties imposed upon those who had disobeyed the order regarding Vacation Commons, protesting that they were unreasonable and unprecedented; secondly, of an alleged refusal of the Benchers to remit these fines or repeal the obnoxious order; thirdly, of the expulsions from the Society as irregular and ignominious; fourthly, of the Benchers imposing new fines on gentlemen called to the Bar and remitting to their own sons and relations ancient fines and duties borne by other members; fifthly, of the Under Treasurer not being elected annually and of excessive fees which they alleged were exacted by him; sixthly, of shops and huts being permitted in the Inn to the annoyance and scandal (as they alleged) of the Society; seventhly, of the chamber of one member (Mr. Leigh) being converted into a shop against his will; eighthly, of the Accounts of the Inn being audited by Benchers only, whereas by the ancient constitutions (as they averred) the audit ought to be a joint one by Bench and Bar; ninthly, of the action of the Benchers in refusing to call to the Bench Mr. John Conyers and Mr. William Cowper<sup>1</sup> on their being made King's Counsel, which the petitioners declared was a disrespect to their Majesties (King William and Queen Mary), and as such resented by the Society; and finally, they represented that the Barristers and Students of the Middle Temple had sought in vain to have these matters rectified and could get no redress from the Masters of the Bench.<sup>2</sup>

To this petition communicated by the Judges to the Benchers of the Inn, the latter delivered the following reply signed by Roger Gillingham their Treasurer: <sup>3</sup>

"The Answer of the Masters of the Bench of the Middle Temple touching severall grievances complained of to the Lords (the Judges) by some vacacon Barristers and Students—Whereas the gentlemen that delivered the paper of pretended grievances stile themselves the Barristers and Students of the

<sup>1</sup> The future Lord Chancellor and Earl Cowper.

<sup>2</sup> E. 417.

<sup>3</sup> E. 418-423.

Society of the Middle Temple insinuating thereby as if they were the whole number of them. Wee hope they shall not be soe reputed for there are above 400 resident Barristers and Students of this Society and the subscribers to that paper are but 45 and most of them have in a notorious and riotous manner broken the orders and rules of the Society and even of civillity and common decency and others of them have been prevailed upon by the false suggestions and menaces of some turbulent persons.

“The Middle Temple ever since they were a Society have been governed by the orders made by the Masters of the Bench and for not observing their orders or for misdemeanours or for endeavouring to make mutinyes in the Society the offenders have been fined and expelled and their chambers seized to the use of the House as appeares by a multitude of presidents above one hundred yeares agoe and since ; And the present Masters of the Bench have made noe orders but what were useful for the good government of the Society and agreeable to justice reason and former instances and usages.”

In answer to the two first complaints they accordingly cited precedents justifying the course they had taken and vindicating their right to limit the amount vacationers might cast into apparels and to fix the price to be paid weekly for Commons. They further stated that when the order they had made was placed for notice upon the screen the complainants violently threw pots at the Porter's head, who stood by it till, to save his life, he was forced to run away, that with clamour and riot they tore it down, affronted and hooted the Benchers passing from dinner out of the Hall, and proceeded to make a mutiny and faction and to commit great enormities and outrages.

To the third they said the matters charged by them against the gentlemen who had been expelled were true and notoriously known that two of those gentlemen (Messrs. Maine and Barlee) had since in Term time set up a paper on the screen to terrify others from coming into Commons, and when one of the Butlers by order of the Bench took it down and brought it to the Benchers, they beat him to the hazard of his life, and burnt his periwig in the Hall fire in a most insulting manner. Further, none of them had petitioned to be restored.

To the fourth complaint they answered that no new fines had been imposed on those called to the Bar except 40s. towards the expense of the organ and new lights, in respect of which the Benchers of the Inner Temple had imposed a tax on the whole of their Society, whereas at the Middle Temple the general cost of these had been paid out of the Treasury and public stock of the House, and the 40s. fine was intended merely to meet the annual charge of the organist and the new lights, which amounted to £75. Further, that the great expenditure incurred upon the Great Gate, the Fountain, and the organ and pews in the church, which amounted to £4000, had been met from the stock of the House and without levying any tax upon members (as would have been done at other Inns), solely by reason of the monies Benchers had paid for fourteen years in the commutation of their Readings. And that as to their sons, Benchers always had the liberty to admit them without fine, and other duties their sons in fact paid.

To the fifth complaint concerning the Under Treasurer, they replied that if he exacted excessive fees they would reform it, but they did not believe any fees other than the due and ancient ones were taken by him; that a Reader of the Society admitted sixty-six years before declared the fees now paid to be the same as those charged when he joined the Inn; that as to electing the Under Treasurer annually, it was never so used, and that, on the contrary, Mr. Baldwin, Mr. Bayliff, and Mr. Jones, the predecessors of the present Under Treasurer, Mr. Buck, had served in the office for twenty-eight, thirty-three, and five years respectively, while Mr. Buck had served for thirty-seven years, very diligently and with great integrity.

The sixth complaint regarding shops and huts in the Inn, they said was new and not mentioned before. Those now existing were either occupied by servants and officers of the Temple or by Stationers, Booksellers, Watchmakers, Tailors, or Barbers, tradesmen proper and useful to the Society, regarding none of whom had there been any complaints of annoyance or scandal, and if there had been order would have been taken therein.

The seventh complaint regarding Mr. Leigh's chamber, they said was likewise newly invented, and was not true. Originally a double chamber (with one of the rooms in common), it had been rebuilt two years before, when the share of Mr. Leigh's chamber-fellow (who refused to join in the outlay) had been bought by Mr. Garfoot, the watchmaker. The room held in

common was then divided by a partition much to Mr. Leigh's advantage, who expressed himself as well pleased with the liberal portion assigned him and the complete separation of his chamber from Garfoot's premises; but subsequently coming with soldiers and workmen, he had broken this partition down at midnight. Summoned before the Benchers for this, he had expressed contrition and replaced the partition, but soon after, with others in a riotous manner, had broken it down again, whereupon the Lord Chief Justice had sent his tipstaff to arrest Leigh, but he could never be found. They had accordingly expelled him, and it seemed to them very strange and unaccountable how the gentlemen came to espouse his quarrel.

As to the eighth complaint, which concerned the auditing of the Accounts, the practice they followed had prevailed for one hundred and fifty years; there was no ancient constitution for the gentlemen of the Bar to participate in such audit, and, on the contrary, the auditing had always been done by the Masters of the Bench, whose contributions to the Treasury of the Inn alone had prevented the Society now being seriously in debt.

The Benchers' answer to the ninth and last complaint is best stated in their own words:

"As to the last objection that the refusing to call Mr. Conyers and Mr. Cowper to the Bench with the usual privileges of King's Council is a disrespect to their Majesties And soe resented by this Society Wee say this also is a new invented complainte never objected before and it's a malicious charge of disrespect to the King And the subscribers to the paper assume upon themselves to say this without authority and contrary to truth that the Society soe resent it for the senior Barristers, with whom the Benchers have discoursed about this matter, are against it, And it's manifestly the interest of all the Barristers and students to oppose it. For as the King hath made two under the Bench of this house his councill at large, he may make many more; And if Mr. Conyers and Mr. Cowper thinke themselves aggrieved they know how to apply; And indeed Mr. Conyers hath soe done very importunately to the Lords Commissioners of the Greate Seale also to the now Lord Keeper <sup>1</sup>

<sup>1</sup> From March 4th, 1689, till March 23rd, 1693, the Great Seal was in commission, Sir John Maynard, Sir Anthony Keck, and Sir William Rawlinson



And to the Judges assembled at Serjeant's Inn And to them separately yett they have thought fitt to leave it as it is without determining anything therein And it seems not reasonable to expect the question about King's Councell should be determined without hearing the other Societys, who have made the like order with the Middle Temple, although noe House has soe greate cause to make such an order as this Society, for here every Bencher as his time for Reading comes pays £200 upon expectacon of having a Bench chamber and being Treasuror before any other that is called to the Bench after him (except the King's Attorney and Sollicitor), soe that by his paying £200 he purchaseth a reall interest, which ought not to be taken from him by his puny ; And if this Society had not thus encouraged those they called to the Bench to pay £200 a piece the charges of the Society could not have been supported nor the buildings and ornaments paid for, out of the publique stock, and the orders made by this and the other Societys concerning the matter of calling to the Bench are ready to bee produced."

The Benchers further added that the insinuation in the petition that the Barristers and students had ineffectually applied to them to rectify these grievances was a gross and seemed to be a wilful and malicious reflection, for in the representations which had been made to them the only matters of grievance mentioned were the price of Commons in Term time, the order for signing Vacation Commons at 8s. 6d. a week, and the fines for breaking that order ; and it seemed reasonable that before complaining to the Judges the petitioners should first have laid all their grievances before the government of the Society, and especially so before alleging that they had applied to the Benchers to rectify them.

On March 1st, 1694, the Judges sat in the parliament chamber of the Inn and considered the complaints and answers and heard what both sides desired to say. Two months later, on May 2nd, they again sat in the same chamber and delivered their decision. They announced that besides conferring together upon the matters in question they had consulted the Judges of the other

being the Commissioners till May 14th, 1690, when Sir John Trevor and Sir Geoge Hutchins took the places of Maynard and Keck. In March, 1693, Sir John Somers (afterwards Lord Somers) was appointed Lord Keeper: see Foss, *Tabulæ Curiales*, 70.

Societies, who concurred in the conclusion at which they had arrived, viz., that the Articles of Complaint were groundless and without cause, and that Messrs. Barlee, Maine, Brown, and Lecky Hill were justly expelled. They therefore confirmed the expulsion. But, seasoning judgment with mercy, they recommended that if before the last parliament of next term, the delinquents acknowledged their fault and humbly petitioned the Masters of the Bench to be restored, and paid such fines (not exceeding £10 apiece) as the said Masters might impose upon them, they should on such submission be restored to their membership of the Society. Further, they declared that gentlemen vacationers must keep in future to the ancient Commons of the House and leave no more in apparels than the Masters of the Bench should think fit to order and allow.<sup>1</sup>

From the answers delivered by the Benchers in this case two facts emerge which are of special interest. First, it appears that the number of Barristers and students in attendance at the Inn now exceeded four hundred ; and secondly, that in the matter of admitting King's Counsel to the Bench, the paralysing effect of the Judge's intervention on behalf of Mr. Francis North was wearing off and the Benchers beginning to show an independence their predecessors had not dared to exhibit.<sup>2</sup> Mr. John Conyers, who was at this time a Barrister of twenty-one years' standing, was not in fact called to the Bench of the Inn till the year 1702 ;<sup>3</sup> while Mr. William Cowper, subsequently twice Lord Chancellor and honoured with an Earldom, never attained that domestic dignity, though he continued to urge his claim, and in 1703 petitioned the then Lord Keeper, Sir Nathan Wright, to intervene on his behalf.<sup>4</sup> In his case there can be no doubt that the rejection of the claim was due to his junior position in the Society, for he had received the rank of King's Counsel, probably through political influence, within six years of his call to the Bar ;<sup>5</sup> and it was not his eminence in the Courts but his remarkable ability as a Parliamentary debater which placed him on the Woolsack at an age when a modern Barrister would be fortunate to find himself in a leading junior practice, and before he had held any legal office other than that of Recorder of Colchester.<sup>6</sup>

In thus resisting the pretensions of King's Counsel the Benchers were no doubt encouraged by the decision of the

<sup>1</sup> E. 424.

<sup>3</sup> E. 173, 500, 501.

<sup>5</sup> E. 363 (date of call May 25th, 1688).

<sup>2</sup> *Ante*, p. 496.

<sup>4</sup> E. 506.

<sup>6</sup> D.N.B. XII, 389-393.

Judges in July, 1689, upon the case of John Try of Gray's Inn. That gentleman, an Ancient of the Society, had been twice passed over when his puisnes were promoted to the Bench. Having petitioned Pension without result, he appealed to the Judges, former members of the Inn—Lord Chief Justice Holt, Mr. Justice Gregory, and Barons Neville and Turton of the Exchequer Court—who, after a careful hearing of the case and long debate at Serjeant's Inn, decided that the call to the Bench was no matter of right in any person, but was in point of government only ; and that it was discretionary, and both persons and time ought to be left to the judgment of the Bench in whom the government of the Society resided ; and that unless the appellant had been called and then disbenched, no cause need be assigned why the Bench refused him. Accordingly, the appeal was dismissed, and the Benchers did absolutely refuse to call the appellant to the Bench.<sup>1</sup>

In November, 1694, another case came before the Bench of the same Inn. This was the application of William Clarke, K.C., who claimed to be admitted to the Bench on his appointment as King's Counsel. At the time he was only of eight years' standing at the Bar, and his application was rejected. He seems to have begun an appeal to the Judges, but did not proceed with it, probably realizing that after the decision in Try's case there was no hope of success.<sup>2</sup>

As already stated, the oaths of supremacy and allegiance revived with the Restoration and were taken by those called to the Bar openly in the Halls of their respective Inns.<sup>3</sup> In 1672,

<sup>1</sup> See Pension Bk. II, 106, and I.T.R. III, 321, where this gentleman is called "Fry."

<sup>2</sup> Pension Bk. II, 120. The whole question of a King's Counsel's right to election to the Bench of his Inn was raised anew and fully considered in the year 1846, when Mr. Abraham Hayward of the Inner Temple claimed that his appointment as King's Counsel gave him *ipso facto* the right to admission to the Bench, and finding that the Benchers would not assign any reason for passing him over, appealed to the Judges. The case was elaborately argued on three days, and the unanimous decision of Lord Denman, C.J., Sir F. Pollock C.B., and nine other Judges, confirmed the conclusion arrived at in Try's case, their Lordships holding that the Benchers of the Inner Temple had the right to determine first whether they would add to their number by any new election, and secondly, which of the members of the Bar belonging to their Society they would elect to the Bench. Further, they rejected the appellant's contention that his silk gown gave him an inchoate right to be called to the Bench.

<sup>3</sup> This subject is more definitely referred to in the Records of other Inns. Thus Gray's Inn, June 1st, 1660, "Ordered that on Munday next in ye after-noon the Readers, Benchers and other members of this Society in Grayes Inn Hall appeare to take ye oathes of supremacy and allegiance And ye

the year in which the Duke of York was publicly received into the Church of Rome, a new enactment had been passed (25 Car. II, c. 2), "For preventing dangers which may happen from Popish Recusants." By this statute all persons bearing any office or place of trust under his Majesty were required to take the oaths between nine and twelve in the forenoon in open Court either in the High Court of Chancery, or the Court of King's Bench, or at Quarter Sessions, first delivering a certificate that they had received the Sacrament according to the usage of the Church of England. Persons so swearing were also required to sign a declaration against transubstantiation, and a Roll was enacted of those taking the oaths which, in the case of the Court of Chancery, was required to be hung in the office of the Petty Bag, and in the case of the King's Bench in the Crown Office.<sup>1</sup> Barristers were not mentioned in this Act, but when, after the accession of William and Mary, new oaths of allegiance and supremacy were substituted for the former ones, the procedure introduced by the Act of 1672 was made applicable to these new oaths, and it was further enacted that they should be taken by all persons required to take the former oaths by any earlier Act.<sup>2</sup> Thus it became the practice for members of the Bar when called to that degree to take the oaths in open Court and sign the Roll subsequently known as the "Swearing Roll."

Meanwhile the oaths continued to be taken in the Halls of the Inns of Court as appears by the Records of the Temple Societies. At the Inner Temple, on June 3rd, 1689, an order was made that those called to the Bar in that House who had not yet taken the oaths of allegiance and supremacy must, on notice of this order, attend at the Bench Table and take them within six days ; <sup>3</sup> and on the 24th of the following November, Nathaniel Piggott, lately called to the Bar by that Society, having refused to take the oaths which had been tendered to him at the Bench Table, was suspended Commons and his call declared null and void "to all intents construccions and purposes whatsoever." <sup>4</sup> At the Middle Temple a book was ordered to be kept in which were to be entered the names of all published as called to the Bar and their taking the oaths of allegiance and

Roll for ye engagement then to bee brought in and disposed of" : Pension Bk. I, pp. 430, 431.

<sup>1</sup> See §§ 1, 2, 3, and 6.

<sup>2</sup> 1 Wm. & M. Session I, c. 8, §§ 2, 3, 11.

<sup>3</sup> B.T.O. II.

<sup>4</sup> A.P. V, 10. Piggott had been called July 4th, 1688 : A.P. V, 5.





*Jos. Nichols Pinxit.*

MIDDLE TEMPLE HALL.

Shewing Hall Court and the Fountain, with the non-railings ere ted 1715.



supremacy, the record being subscribed by the Benchers in whose presence the oaths had been taken.<sup>1</sup>

The brief reign of James II, which barely extended to four years, was probably the most discreditable period in England's annals, so far as the administration of justice is concerned. Yet, judged by calls to the Bar, it was one of exceptional prosperity at the Middle Temple, 105 members of the House being called to that degree, an average of 26 per annum. At the Inner Temple, as usual, the number was less, being 72, giving a yearly average of 18. For the reign of William and Mary, a longer period of about seven years, the figures are 125 for the Middle Temple and 115 for the Inner Temple, averaging per annum 18 and 16 respectively. For that of William III after the death of Queen Mary, also about seven years, the respective figures appear to be 124 and 105, giving an average of 17 yearly for the Middle Temple and 15 for the Inner House. Finally, during the reign of Queen Anne (twelve years and five months), the calls at the Middle Temple numbered 192 and at the Inner Temple 172, making the averages per year 15 and 14 respectively. These figures, the result of private calculations based on the Records of the Inns, are believed to be substantially correct, but they are not official, as no statistics of this kind have hitherto been published by either Society. Notwithstanding the disasters from which the Temple had suffered in the reign of Charles II necessitating the rebuilding of nearly all the chambers in both Houses, it may be confidently asserted that the numerical strength and general prosperity of the Inns was greater at the close of the seventeenth century than ever before. In the case of the Middle Temple there is definite information, as shown above, that its membership at this time exceeded 400, while from engravings of the church and Hall supplied to the Benchers of that Society, it appears that the Roll of the Bench now numbered 31.<sup>2</sup> And although information as precise has not been found in regard to the Inner House, there seems to be no reason to suppose it was less prosperous.

<sup>1</sup> E. 365 (June 29th, 1688).

<sup>2</sup> Two engravings of the church and two of the M.T. Hall. In order that each Benchers might have the set 124 copies were ordered and paid for: see *Treasurers' Accts.* Bk. 318 (1702-3).

## CHAPTER XIV

### THE GREAT SEAL FROM THE RESTORATION TO THE REVOLUTION

AFTER the Restoration the Woolsack became for a time almost an appanage of the Temple. Of the ten custodians of the Great Seal who held office either as Lord Keeper or Lord Chancellor during the next half-century only one, the mercurial Lord Shaftesbury, had not received his legal education in the Temple. Four members of the Temple Societies received the Seal from King Charles II—Sir Edward Hyde and Sir Francis North of the Middle Temple, and Sir Orlando Bridgeman and Sir Heneage Finch of the Inner House; while Lord Jeffreys, the only Chancellor appointed by James II, was also of that Society. As holders of the highest office in the Law some account of these distinguished Templars must now be given.

Edward Hyde joined the Middle Temple Society on February 1st, 1625,<sup>1</sup> under the auspices of his uncle Sir Nicholas Hyde, then Treasurer of the Inn, and who, in 1627, was appointed Lord Chief Justice of the King's Bench. He was called to the Utter Bar on November 22nd, 1633.<sup>2</sup> Though much attracted by politer studies, he early acquired a considerable practice at the Bar. In 1640 he entered Parliament on the popular side, but turned to the Court when the Church was attacked and filled the part of confidential adviser to the King. On the outbreak of Civil War his energies at first were devoted chiefly to raising money for the royal cause. Charles appointed him Chancellor of the Exchequer, and as such he was knighted at Oxford on February 22nd, 1642.<sup>3</sup> The confiscation of his chambers, books, and papers in the Middle Temple by the order of Parliament has been already noticed.<sup>4</sup> Thus the stormy times in which his lot was cast gave to his career a very different bent from

<sup>1</sup> The admission entry is as follows: "Mr. Edwarde Hyde filius et heres apparens Henrici Hyde de Pyrton in Com. Wilts. generosi admissus est in Societatem Medii Templi specialiter obligatur unacum Magistris Johanne Bramston et Laurencio Hyde gen. et dat pro fine £2": C. 201.

<sup>2</sup> B. 119.

<sup>3</sup> Shaw, II, 215.

<sup>4</sup> *Ante*, p. 418.



anything he can have anticipated when called to the degree of the Utter Bar.<sup>1</sup> Removed from the ordinary work of his profession by his service in the royal cause, he followed Charles II into exile, and remained his constant and faithful adviser during the years of adversity which followed. Undismayed in the darkest hour, and labouring assiduously in his master's interests, he kept in touch with the royalists in England, striving continually by his letters and counsel to co-ordinate their efforts to promote the King's return to the throne of his ancestors. Certainly no other member of the exiled Court played so large a part in the ultimate restoration of the Monarchy. On January 29th, 1658, Charles II, while still in exile, confided to his keeping, with the title of Lord Chancellor, the Great Seal surrendered by Sir Edward Herbert three and a half years before.<sup>2</sup> Thus it was as holder of this high office that Sir Edward Hyde returned to England in May, 1660. On November 3rd he was raised to the Peerage as Lord Hyde of Hindon, and six months later (April 30th, 1661), on the eve of the King's coronation, created Viscount Cornbury and Earl of Clarendon. Oxford University also added to his honours by electing him their Chancellor. His long absence from the Courts of Law and deep absorption in political affairs were but an indifferent preparation for presiding as a Judge in Equity. Nevertheless, Lord Clarendon seems on the whole to have discharged his judicial duties with success, wisely seeking the assistance of the Judges where he found it necessary to supply the deficiencies of his own experience.<sup>3</sup> Of his integrity and impartiality in the administration of justice there can be no question, and his patronage seems to have been wisely dispensed.

It is, however, as a statesman rather than a lawyer that he will figure in history, for during the years which immediately followed the Restoration he was the King's confidential adviser in all matters of government, and virtually Prime Minister as well as Lord Chancellor. The position was one of great difficulty, for if Charles II was to reign over a united people, it was essential to conciliate his former enemies, which too often could be done only by disappointing his friends. Further, Clarendon's de-

<sup>1</sup> By far the best account of Lord Clarendon's career will be found in the admirable article by Prof. Firth in D.N.B. XXVIII, 370-389; see also Foss, VII, 122-134.

<sup>2</sup> *Tabulæ Curiales*, 66.

<sup>3</sup> Speaker Onslow states, on the authority of Sir Thos. Clarke, M.R., that Lord Clarendon never made a decree without the assistance of two of the Judges: see *Hist.* (Edit. 1833), I, 172.

votion to the Church of England as by law established aroused the antagonism of the Presbyterians, and Roman Catholics; and although he offered Baxter a bishopric and would gladly have conciliated the Presbyterians, and if possible drawn them into the Church, the Commons had other views, and were insistent on rigid conformity which allowed of no toleration to dissenters. In a jealous Court the claim which Clarendon's conspicuous services gave him upon the royal confidence—a confidence which the King seems at first to have whole-heartedly conceded—made him an object of resentment to others who without his capacity considered themselves quite as fitted to direct the National Councils. Nor were the feelings of hostility thus engendered softened by the Chancellor's personal aloofness and a manner which was often domineering. The malicious allegation subsequently made by the Commons that he abused his position of power to enrich himself appears to have been wholly without foundation, and, indeed, the exact contrary of the truth, for his scruples about accepting gifts from the royal bounty caused the King no little astonishment. Nevertheless, the office he held was one of great profit, and the impression of riches created in the popular mind by the palace he erected at the top of St. James's Street, gave credence to the fabrications of his enemies, which, by imputing to him a grasping avarice, heightened his unpopularity and in no small measure contributed to his fall.<sup>1</sup> Engrossed in the domestic problems of his time he paid little attention to foreign affairs, being content apparently to accept responsibility as the King's Chief Minister for actions he had not advised and of which he even disapproved. He thus became identified in the public mind as the instigator of the unpopular sale of Dunkirk to the French and of that disastrous war with Holland, forced on by the Duke of York and the trading classes, which, inefficiently conducted, resulted in defeats so humiliating to the national pride. The Queen Mother (who had always been jealous of his influence over the King) was also hostile, and gave her support to his enemies. Notwithstanding the difficulties of his position, Clarendon remained in power for seven years, and would probably have

<sup>1</sup> For a picture of this mansion which stood in grounds now covered by the houses between Bond Street and Berkeley Street, and faced St. James's Palace, see Dobson's Edit. of Evelyn's Diary, II, 214. Both Evelyn and Pepys comment on this house. The latter observes, "Indeed it is the finest pile I ever did see in my life and will be a glorious house" (January 31st, 1665). The mob, who believed Clarendon had been bribed to assent to the sale of Dunkirk, called it "Dunkirk House."

continued to enjoy the royal confidence had not his remonstrances against the irregularities of his master's life and the shameless profligacy of the Court, likewise enlisted triumphant vice against him, and by alienating the King's sympathy neutralized the feelings of gratitude inspired by his lifelong service. On August 30th, 1667, he was deprived of the Great Seal, and when Parliament met on the 10th of the following October, the Commons were soon busy searching out precedents for impeachments of treason. On sixteen articles containing vague and general charges they demanded his committal by the House of Lords. But the Upper House required more specific allegations, and when these were not forthcoming, declined to commit : a decision which caused the Commons to retort that the Lords' refusal was an obstruction to the public justice of the kingdom and in the precedent of evil and dangerous consequences.<sup>1</sup> Thus a deadlock ensued between the two Houses which seriously embarrassed the King's Government. Had Clarendon faced his accusers the impeachment probably would have proved abortive, for the only charge which amounted in law to treason was a wanton and baseless allegation that he had discovered and betrayed the King's secret counsels to his enemies.<sup>2</sup> But the fate of Strafford and Laud was fresh in men's memories, justifying the fear that the Commons of England might still be capable of manufacturing treasons to satisfy their animosity, and Clarendon's friends urged him to secure his safety by leaving England for a time. The King also let it be known that this suggestion had his approval, realizing, no doubt, that if acted upon it would remove the bone of contention between the two Houses. Unhappily, the fallen Chancellor yielded to this insidious advice, and leaving behind him a letter addressed to the Lords in his own vindication, turned his back upon London and took ship for the Continent on the evening of November 29th. This fatal step at once delivered him into the hands of his enemies. For the Lords, treating his flight as a confession of guilt, dropped their insistence on specific charges, and sent down the letter they had received for consideration by the Lower House, who at once pronounced it scandalous and seditious, declared that it reproached the public justice of the nation, and informed the Lords of their desire that the paper

<sup>1</sup> Com. Journals, IX, 16, 18, 19, 20, 29.

<sup>2</sup> A seventeenth article (originally the first) alleging Clarendon had advised Charles to supersede Parliament by a military Government, the Commons themselves had abandoned.

should be burned by the hand of the hangman.<sup>1</sup> As Clarendon was now beyond the jurisdiction of the Houses, the impeachment was dropped, but an Act was passed banishing him from the kingdom and making his return high treason.<sup>2</sup> Thus an exile voluntarily entered upon in the expectation that it would be brief proved permanent, for though he earnestly sought liberty to return, the Act was not repealed. The seven remaining years of his life were spent in literary labours. He died at Rouen on December 9th, 1674, in the sixty-sixth year of his age. Though not permitted to return in life, his remains were suffered to find a final resting-place by the side of his wife in Westminster Abbey, near the entrance to the Chapel of King Henry VII. It cannot be suggested that the nation derived any benefit from his fall, for the power he had wielded passed to far less reputable hands,<sup>3</sup> and indeed, his best vindication lies in the ever-deepening discredit into which the Government of Charles II fell after this faithful servant had been removed from its councils.

Nine years after Clarendon's death the sumptuous palace he had erected was pulled down to make way for other buildings. Evelyn, noticing this "strange vicissitude of earthly things," observes :

"He kept the government far steadier than it has proved since. I could name some who I think contributed greatly to his ruin—ye buffoones and the Misses to whom he was an eyesore. 'T is true he was of a jolly temper after the old English fashion but France had now the ascendant and we were become quite another nation." <sup>4</sup>

If Lord Clarendon cannot be regarded as a great lawyer, it is impossible to deny him greatness of an ampler kind. Since the fall of Cardinal Wolsey no other holder of the Great Seal has played so decisive a part in English history as this distinguished son of the Middle Temple. Exemplary in his private life and as a statesman always true to the principles he had espoused, his conduct is marked throughout by a consistency

<sup>1</sup> Com. Journals, IX, 32. It is curious how the Commons still seem to have regarded any person they elected to accuse as *ipso facto* guilty, and if he dared to refute their charges, as only adding sedition to treason.

<sup>2</sup> *Ibid.* 37, 39, 40, 42.

<sup>3</sup> Clifford, Arlington, Buckingham, Ashley, and Lauderdale, commonly known as the "Cabal."

<sup>4</sup> Memoirs (1818), September 18th, 1683.



rare indeed in public men. He is now chiefly remembered as the historian of the Great Rebellion; and if he was no unprejudiced chronicler, his writings yet possess a unique value as contemporary records compiled by one of the ablest and most active participators in the events of that tragic time. One other fact must not be forgotten. Through the marriage of his daughter, Anne Hyde, with the Duke of York, the posthumous honour has been his of having two Queens of England numbered amongst his descendants. A portrait of Lord Clarendon wearing his robes as Chancellor, painted by Sir Peter Lely, is in the possession of the Middle Temple Society, and amply bears out Evelyn's description that "he was of a jolly temper after the old English fashion."

On the fall of Lord Clarendon the Great Seal was given to a former member of the Inner House. Samuel Pepys notices the event in his Diary under the date August 31st, 1667: "The Seal is delivered to Sir Orlando Bridgeman the man of the whole nation that is the best spoken of and will please most people; and therefore I am mighty glad of it." The new custodian, who received the title of Lord Keeper, was the son of the Rev. John Bridgeman, D.D., Bishop of Chester.<sup>1</sup> Born in the year 1606, he had graduated from Queen's College, Cambridge, in January, 1624, and on November 21st, 1625, was admitted to the Society of the Inner Temple.<sup>2</sup> On February 10th, 1632, he was called to the Bar,<sup>3</sup> and soon attained a position of some distinction, being appointed Attorney of the Court of Wards and Solicitor-General to the Prince of Wales (afterwards Charles II). Returned to the Long Parliament in 1640 as member for Wigan, he opposed the measures taken against Lord Strafford,<sup>4</sup> and generally showed himself an ardent royalist. In May, 1642, he left Westminster<sup>5</sup> when the Bill was carried authorizing Parliament to appoint Lord-Lieutenants, and so raise armed forces. The outbreak of Civil War found him at Chester, where he actively espoused the King's cause, encouraging its supporters, says Clarendon, on his credit and estate, both of which were very good, and supplying them with whatsoever was necessary for their defence, "so that they were not put to be honest and expensive together."<sup>6</sup> These exertions brought

<sup>1</sup> For general information, see Foss, VII, 59-64; D.N.B. VI, 318.

<sup>2</sup> Admission Bk. (1571-1640), 516.

<sup>3</sup> A.P. II, 206; I.T.R. II, 204.

<sup>4</sup> Parl. Hist. II, 611; Clarendon, Hist. II, 605.

<sup>5</sup> Whitelocke's Memorials, 59.

<sup>6</sup> Hist. III, 448.

him a double reward, for while the Parliament by resolution declared him disabled from sitting in the House of Commons,<sup>1</sup> the King conferred upon him the honour of knighthood.<sup>2</sup> A member of the King's Oxford Parliament, he acted as one of the Royal Commissioners in the negotiations conducted at Uxbridge in 1644.<sup>3</sup> Two years later, when the royal cause had suffered eclipse, he compounded with the Parliament at a cost to himself in money and property of about £2300.<sup>4</sup> The part he had played in the Civil War prevented his return to practice in the Courts under Cromwell, but he sufficiently disarmed the hostility of the Lord Protector to be suffered to carry on a business in conveying, and his expertness in this branch of the law is said to have brought him great employment even among his former enemies.

At the Restoration he was at once called to the Bench of his Inn,<sup>5</sup> created a Serjeant-at-Law, and appointed Lord Chief Baron of the Exchequer. In this capacity he presided over the trials of the Regicides (October, 1660), charging the Grand Jury which found the Bills against them, and taking the leading part on the Bench in all the subsequent proceedings.<sup>6</sup> At the conclusion of these trials he was transferred (October 22nd) to the office of Chief Justice of the Common Pleas, which he continued to hold with growing reputation for seven years. It was a position for which his mastery of the Common Law, untiring industry, and strict impartiality peculiarly fitted him, and hence when it became necessary in 1667 to find a successor to Lord Clarendon, Sir Orlando Bridgeman was in great esteem.<sup>7</sup> Lord Keeper at the age of sixty-one, he held the Great Seal for five years, but, unhappily, disappointed the expectations raised by the great satisfaction he had given as Chief Justice. All appear to have recognized his honesty and moderation, but the learning which had served him well in the Common Pleas was of less use to him in his new sphere of duty. Conscious of this, his very honesty seems to have proved a source of weakness, for he lost his nerve, and so became a victim of indecision that Roger North describes him as "timorous to an impotence," and

<sup>1</sup> Com. Journ. II, 742 (August 29th, 1642).

<sup>2</sup> November 17th, 1643; Shaw, II, 216.

<sup>3</sup> Whitelocke's Memorials, 125; Clarendon's Hist. V, 37.

<sup>4</sup> Cal. Compounding Committee (Domestic), Pt. II, 1430, 1431. As to £1400 of this penalty he settled a rectory worth £140 per annum on the minister in charge for ever.

<sup>5</sup> A.P. III, 133.

<sup>6</sup> State Trials, V, 988-1229.

<sup>7</sup> Burnet's Own Times, I, 253.

labouring much to please everybody ; "a temper," he sagaciously adds, "of ill consequence to a Judge." Hence, if a cause admitted of diverse doubts, it was observed of him that he would never give all on one side, but either party to it should have something to go away with. So that the Court of Chancery in his time, continues North, ran out of order into delays and endless motions in causes till it was like a fair field overgrown with briars.<sup>1</sup> These defects no doubt made his removal inevitable, but the actual occasion of it was an independence honourable to the Judge if inconvenient to his royal Master.

In March, 1671, King Charles issued a proclamation of indulgence for tender consciences which caused much uneasiness in the nation.<sup>2</sup> Of this proclamation the Lord Keeper, the son of a Bishop and, like his predecessor Lord Clarendon, a devoted member of the English Church, seems to have plainly expressed his disapproval, though the allegation that he refused to attach the Seal to it appears to be unfounded.<sup>3</sup> But a further matter soon arose in which he was again at variance with the Crown. The King had borrowed large sums from the London bankers and, in breach of the terms of the loan, it was suddenly intimated that for a year no payments would be made from the Exchequer.<sup>4</sup> This exposed the bankers to imminent ruin should they be sued at law by the persons from whom they themselves had borrowed the money lent to the King, and for their relief injunctions were sought in Chancery to stay any such proceedings. But it appeared to the Lord Keeper that the violation of contracts by the Crown was no good reason for abridging the legal remedies of third persons ; and he gave his decision accordingly. This determined his fate. The Great Seal was taken from him (November 17th, 1672) and given with the title of Lord Chancellor to that sinister personage, the newly created Earl of Shaftesbury,<sup>5</sup> who knew no law and despised all lawyers, but was perhaps at this time as ready to betray the people as he was afterwards in the guise of a patriot to plot treason against the Crown. On

<sup>1</sup> *Lives of the Norths*, I, 115 (§ 128).

<sup>2</sup> *Reresby*, 11.

<sup>3</sup> *Burnet's Own Times*, I, 307, n.

<sup>4</sup> The true history of the reign of Charles II has yet to be written. Records are now coming to light which show that King Charles, so far from turning to France for money to make him independent of Parliament, was driven into being a pensioner of Louis XIV because his factious Parliament, led by men in the pay of the French Ambassador, systematically refused him the money necessary to carry on the government of the country : see the *Introductions to Calendar of Treasury Books, Rolls Series*, by W. A. Shaw, Litt.D.

<sup>5</sup> *Tabulæ Curiales*, 66.

the Lord Keeper's dismissal Roger North makes the following comment :

"He boggled at various things required of him and in particular stopping the lawsuits against the Bankers by injunction. . . . The Lord Shaftesbury took advantage of this difficulty and, as was supposed, by undertaking to do whatever the Lord Keeper Bridgeman refused, got him removed and slipt into his place."<sup>1</sup>

Sir Orlando Bridgeman had been honoured with a Baronetcy at the Restoration<sup>2</sup> and sworn of the Privy Council when made Chief Justice, but received no further mark of royal favour. He was never a member of the House of Lords. His learning and integrity were viewed with much respect by Lord Nottingham, who had practised before him, and he has been praised in more recent years by Lord Ellenborough.<sup>3</sup> Prince, too, in *Devon Worthies*, has paid tribute to his moderation and fairness in the Common Pleas, "endearing as well as opening the law to the people as if he carried about him the King's conscience as well as his own."<sup>4</sup> But as a Judge in Chancery he was clearly out of his element.

"His study and practice," wrote Bishop Burnet, "were so entirely in the Common Law that he never seemed to apprehend what Equity was ; nor had he a head for the business of such a Court." He adds, however, "He was a man of great integrity and had very serious impressions of religion on his mind."<sup>5</sup>

With the appointment of Lord Shaftesbury the honour of the Great Seal passed for a time to Lincoln's Inn, which he had joined as a young man, though<sup>6</sup> he made no pretence of studying law and had never been called to the Bar. It soon, however, returned to the Temple, for within a year that unstable politician had been dismissed from office and the Seal confided to one whose name will always occupy an illustrious place on the roll of English Chancellors.

From Westminster School and Christ Church, Oxford, Heneage Finch, at the age of seventeen, was admitted to the

<sup>1</sup> Lives, I (§ 128) : see also *Examen*, § 17.

<sup>3</sup> 14 East, 134, 135.

<sup>5</sup> *Own Times*, I, 253.

<sup>2</sup> June 7th, 1660.

<sup>4</sup> Edit. 1701, p. 100.

<sup>6</sup> *Admissions Bk. I*, 234 (January 18th, 1637).



Society of the Inner Temple on November 25th, 1638.<sup>1</sup> Like Sir Edward Hyde, he was the scion of a family already distinguished in the law, and one of whom, Sir John Finch of Gray's Inn, was at that time Chief Justice of the Common Pleas. His admittance entry describes him as the son and heir of Sir Heneage Finch, late Serjeant-at-Law and Recorder of the City of London.<sup>2</sup> Both his father and Sir John Finch had filled the office of Speaker of the House of Commons, and in 1640 Sir John was appointed Lord Keeper of the Great Seal and created a peer as Baron Finch of Fordwich in the County of Kent. His tenure of the office, however, was short, for, having advised the King that the levying of ship money without the concurrence of Parliament was lawful, he fled from the country to escape the vengeance of the Commons. Thus, by family connection, Heneage Finch was a King's man, and it might have been expected that when the final rupture came between Charles and the Parliament he would have joined the royal forces like many other members of his Inn. The drums and trumpets of the Civil War, however, did not lure him from his studies. He took no active part in the struggle of the Great Rebellion. From his own statement made subsequently when the rebuilding of the Temple cloisters was under consideration, it may be inferred that as a student he was very assiduous in debating cases,<sup>3</sup> and thereby acquired that happy facility of speech which distinguished him in after life. For it was his maxim that a student of law should study all the morning and talk all the afternoon. But the national upheaval must have placed him at some disadvantage in his early training, for the Readings and indeed the whole system of legal education stopped for a time with the year 1642. Three years later, on January 30th, 1645, he was called to the Utter Bar,<sup>4</sup> and about the same time he married. There appears to be no information in regard to his progress in the years which immediately followed. His name does not again occur in the Records of the Inner Temple until the year 1660, and he took no part in public life under the Commonwealth. There can be little doubt, however, that he

<sup>1</sup> Admissions Bk. (1571-1640), p. 666; see generally Foss, VII, 87-97; D.N.B. XIX, 8-11.

<sup>2</sup> "Heneage Finch filius et heres Heneage Finch militis nuper servientis ad legem et Recordatoris Civitatis London defuncti admissus est in Societatem istius comitivæ specialiter gratis per parliamentum tentum XXV die Novembris 1638."

<sup>3</sup> Lives of the Norths, I, 25 (§ 20).

<sup>4</sup> A.P. III, 40.

devoted himself with success to the work of his profession. In Siderfin's Reports of Cases in the Court of Upper Bench for the three years preceding the Restoration, his name is of frequent occurrence, and in February, 1658, he won a remarkable tribute from his opponent in a case before the House of Commons Committee of privileges. This was the contested return of Mr. Street, one of the Burgesses for the City of Worcester, whom the petitioners alleged to be a common swearer, chosen by the profane rabble and Cavaliers. Finch appeared in support of the return, and when he had concluded his argument the counsel for the Petitioners (Mr. Latham) declared that he had not only done the part of an advocate but of an exquisite orator.<sup>1</sup>

He first entered public life as a member of the Convention Parliament which met in April, 1660. There he sat for the City of Canterbury,<sup>2</sup> which his relative, the Lord Keeper of Charles I, had also at one time represented. With the Restoration fortune began to smile upon him. Though he had done nothing and suffered nothing in the royal cause he was appointed Solicitor-General and given a baronetcy.<sup>3</sup> This alone seems convincing proof of the high position he had attained in his profession. He was now further honoured by election to the Bench of his Inn, and after performing the duties of Reader in the year 1661—when his Feast, as already narrated, was honoured by the presence of the King—he was elected Treasurer of the Inner Temple, and continued to serve his Society in that office for no less a period than twelve years.<sup>4</sup> His colleague, the Attorney-General, Sir Geoffrey Palmer, recognizing his eminent gifts as an advocate, largely left to his skilful guidance the prosecutions instituted against the Regicides.<sup>5</sup> Also representing the Government in the House of Commons,<sup>6</sup> he was now in the foremost position at the Bar, and it is not surprising that the University of Oxford chose him as its member in the Parliament summoned by Charles II in 1661,<sup>7</sup> and which was destined to last for eighteen years. Though profoundly versed in the Common Law, it was not so much the range of his learning as the charm

<sup>1</sup> Burton's Diary, III, 433, also 70, 425-435.

<sup>2</sup> Parl. Hist. IV, 4.

<sup>3</sup> June 7th, 1660; Wotton, IV, 267.

<sup>4</sup> A.P. III, 134, 140, 147; IV, 62.

<sup>5</sup> State Trials, V, 1008-1145.

<sup>6</sup> The Attorney-General, as adviser of the Lords, was still precluded from sitting in the Lower House. Cf. *ante*, p. 251.

<sup>7</sup> Parl. Hist. IV, 198; Com. Journ., VIII, 247; also returned for Beaumaris, Anglesey.

of his oratory which impressed his contemporaries. Both Pepys and Evelyn have borne witness to this, the former as follows on May 3rd, 1664 : " I do really think he is a man of as great eloquence as ever I heard or ever hope to hear in all my life." <sup>1</sup> In 1670, on the death of Sir Geoffrey Palmer, he became Attorney-General, and on November 9th, 1673, in succession to Lord Shaftesbury, Keeper of the Great Seal,<sup>2</sup> being raised to the Peerage in the following January as Lord Finch of Daventry. Two years later he received the higher title of Lord Chancellor (December 19th, 1675), and in May, 1681, was created Earl of Nottingham.<sup>3</sup>

In the preceding December it had been his painful duty to preside as Lord High Steward over the trial in Westminster Hall of the ill-fated Viscount Stafford, impeached by the House of Commons on the perjured testimony of Titus Oates, and one of the many victims of that infamous fabrication, the alleged Popish Plot.<sup>4</sup> He conducted the proceedings with great dignity and conspicuous fairness, and has won from Sir James Stephen the remarkable tribute that even in modern times no prisoner could be treated with greater tenderness, consideration, and courtesy than he extended to the accused Peer.<sup>5</sup>

Though in his last years Lord Nottingham's powers were impaired by failing health, he continued to discharge the duties of his office till his death in December, 1682. Not less distinguished as a Judge than he had formerly been as an advocate, he is now chiefly remembered for the work he did in his Court of Equity, and if to the narrow mind of Roger North his decisions appeared as hair splitting and suitors before him as drawn from the Law to be tossed in a blanket, later generations have formed a very different estimate of his services to English Jurisprudence. In illustration of this, it must suffice here to quote the tribute of Mr. Story in his classic Treatise on Equity, which after a recognition of Lord Nottingham's eminent abilities and incorruptible integrity, proceeds as follows :

<sup>1</sup> See also Evelyn's Diary, October 27th, 1664.

<sup>2</sup> London Gazette, No. 832.

<sup>3</sup> *Ibid.* Nos. 1052 and 1616.

<sup>4</sup> State Trials, VII, 1294-1567.

<sup>5</sup> Hist. Crim. Law, I, 396. Lord Stafford was found guilty by 55 votes to 31. With one exception all his own relatives voted against him. The conviction is now universally regarded as a miscarriage of justice. Evelyn doubted at the time Lord Stafford's guilt. His interesting account of the trial before the Lords, at which he was present, concludes, " God only, who searches hearts, can discover the truth. Lord Stafford was not a man beloved, especially by his own family " : Diary, November 30th-December 7th, 1680.

"He possessed a fine genius and great liberality of views and a thorough comprehension of the true principles of Equity so that he was enabled to disentangle the doctrines from any narrow and technical notions and expand the remedial justice of his Court far beyond the aims of his predecessors. In the course of nine years during which he presided in the Court he built up a system of jurisprudence and jurisdiction upon wide and rational foundations which served as a model for succeeding Judges and gave a new character to the Court and hence he has been emphatically called 'the Father of Equity.'"<sup>1</sup>

He is also credited with the paternity of the Statute of Frauds. Perhaps a more dubious title to honour, for while Lord Campbell has pronounced it "the most beneficial piece of Juridical legislation of which we can boast," there are others who have thought that it has been the occasion of many more frauds than it has prevented.

There is a felicitous description of Lord Nottingham under the character of Amri in the second part of Absalom and Achitophel, which, though often quoted, is too happy to be omitted here :

"Sincere was Amri and not only knew  
But Israel's sanctions into practice drew;  
Our Laws that did a boundless ocean seem,  
Were coasted all, and fathomed all, by him.  
No rabbin speaks, like him, with mystic sense,  
So just, and with such charms of eloquence;  
To whom the double blessing does belong,  
With Moses' inspiration, Aaron's tongue."<sup>2</sup>

Imbued with a high sense of duty in the exercise of his patronage, it would be difficult to point to any holder of the Great Seal who administered the affairs of the Church with a more conscientious regard for its best interests. No man is perfect, and in some respects his public actions are open to criticism, but his faults were so infinitely exceeded by his merits that, like spots on the sun, they seem lost to view in the brilliance of his achievement. No doubt his portrait shines with an added lustre from the darkness of the background against which it

<sup>1</sup> Commentaries (Edit. 1836), I, 52.

<sup>2</sup> This portion of the second part of the poem is generally attributed to Nahum Tate and not to Dryden. But surely these lines suggest at least the revision of the master's hand.



must be painted. In a Society torn by faction and so depraved that to secure the favour of the highest in the land, it was thought necessary to keep a mistress, he moves a serene figure deaf to the clamour of party and conspicuous for the purity of his life. Certainly among the many eminent men who have filled the great office he adorned, it would be difficult to point to any more deserving of honour, whether as lawyer, statesman, or man.

The Seal which Lord Nottingham only resigned in death remained with the Temple, being entrusted by the King to Sir Francis North, Chief Justice of the Common Pleas.

Francis North, the future Lord Guilford, was born in 1637. On November 27th, 1655, he was admitted to the Middle Temple Society from St. John's College, Cambridge. His admittance entry describes him as "the second sone of Sir Dudley North Kt. of the hon<sup>ble</sup> Order of the Bath of Catledge in the County of Cambridge."<sup>1</sup> The Treasurer of the Middle Temple at this time was Challoner Chute, who had married Lady Dacres, young North's aunt, and his brother and biographer, Roger North, tells an interesting story of how when Sir Dudley after some bargaining had paid the admittance fine, the Treasurer swept it into the young man's hat, saying, "Let this be a beginning of your getting money here."<sup>2</sup> A tale which finds confirmation in the Inn's Record, "and he gives for a fine being Mr. Treasurer's nephewe—nihil."<sup>3</sup> The claims of a large family prevented Sir Dudley giving his son more than a small allowance, and thus from the first Francis North was made to realize the necessity of relying upon his own exertions. Naturally of a shy and retiring disposition, no practitioner of the Law ever came to the work of his profession less endowed with that self-confidence so necessary to success in it.

"I believe," writes his brother, "a more shamefaced creature than he was never came into the world : he could scarce bear the being seen in any public places. I have heard him say that when he was a student and ate in the Temple Hall, if he saw any company there he could not walk in till other company came, behind whom as he entered he might be shaded from the view of the rest. And he used to stand dodging at the Screen till

<sup>1</sup> B. 452. While Cromwell ruled the admittance entries were made in English.

<sup>2</sup> *Lives of the Norths*, I, 18 (§ 10).

<sup>3</sup> B. 452.

such opportunity arrived ; for it was death to him to walk up alone in open view." <sup>1</sup>

Nevertheless, he read hard and lived frugally, was constant in his attendance at Moots in the Temple and New Inn, made a special study of the Year Books without a competent knowledge of which he thought no lawyer could be well grounded in the learning required by his profession, and sat much in the Common Pleas where, as Lord Nottingham said, "the Law was at home." <sup>2</sup> On June 28th, 1661, he was called to the Utter Bar <sup>3</sup> and commenced practice in a chamber on the first floor in Elm Court, to which he was admitted on February 17th, 1662. <sup>4</sup> Through family influence he soon acquired some business on the Norfolk Circuit. For his introduction to work in London he was indebted to Sir Geoffrey Palmer, Attorney-General, with one of whose sons he had formed a close friendship, and who, impressed by his merits, put Government briefs in his way, and generally lent him a helping hand until, as Roger North declares, "no advantage in practice was wanting that Mr. Attorney could provide for him." <sup>5</sup> Through this valuable connection the future Lord Keeper obtained the opportunity of distinguishing himself before the House of Lords in the case of the *King v. Hollis and others*, which resulted, as already stated, in his promotion to the rank of King's Counsel and to the Bench of his Inn at the early age of thirty-one. <sup>6</sup> Thus hall-marked as a rising man of the Court party his further progress was rapid. In 1671, on the elevation of Sir Edward Turner to the chief seat in the Court of Exchequer, North was appointed his successor as Solicitor-General, received the honour of knighthood, and was chosen Reader of the Middle Temple. <sup>7</sup> The great attendance at his Feast and the prodigality of his entertaining have

<sup>1</sup> Lives of the Norths, I, 37 (§ 31). The screen which thus sheltered the timidity of young North still stands as it did in his day in the Middle Temple Hall.

<sup>2</sup> *Ibid.* 26-29 (§§ 21-24).

<sup>3</sup> E. 48.

<sup>4</sup> "Feb: 17<sup>o</sup> 1662<sup>o</sup> Mr<sup>r</sup> Franciscus North de le Utter barr admissus est in totam illam cameram Mr<sup>r</sup> Harry Constantine scituat. ab Austral. parte de le Elme Court primi gradus ac in loco et vice dict. Mr<sup>r</sup> Constantine H. qui eandem ea intentione reddidit et dat pro fine £3. 6. 8": Admissions Bk. 61. His brother says he paid £300 for his life interest in this chamber; Lives, I, 42 (§ 36).

<sup>5</sup> Examen, § 511.

<sup>6</sup> E. 124; see *ante*, pp. 494-6.

<sup>7</sup> Tabulæ Curiales, 65; Shaw, II, 245. "Franciscus North miles sollicitator Generalis Dñi Regis Lector electus pro tempore Autumnali proxime futuro confirmatur": June 26th, 1671, E. 162.

been already described.<sup>1</sup> In 1673 he was returned to Parliament as member for King's Lynn, and on November 12th advanced to the office of Attorney-General, vacant through the promotion of Sir Heneage Finch as Lord Keeper of the Great Seal.<sup>2</sup> In little more than a year the death of Sir John Vaughan opened the way for his further advancement, and on January 22nd, 1674, Sir Francis North was raised to the Bench as Chief Justice of the Court of Common Pleas, a position for which his learning and experience peculiarly fitted him.<sup>3</sup> He held the office for eight years with general approval, and resigned it with unfeigned regret when, on December 20th, 1682, the Great Seal was entrusted to his keeping.<sup>4</sup> He had no illusions as to the difficulties of that high office in the closing years of King Charles II, and probably only his sense of duty and devotion to the King's service induced him to accept it. "Here my Lord, take it," said the King as he handed him the Seal. "You will find it heavy,"<sup>5</sup> a prediction which the course of events amply justified, for with a royal master who was a concealed Papist and an heir to the throne who was an avowed one, both at issue with the Parliament, the Woolsack could prove no easy seat to a loyal son of the Church of England, and it is not surprising to learn from his brother Roger North that the Lord Keeper confessed in his last illness he had not enjoyed one easy and contented minute since he held the Seal.<sup>6</sup> Evelyn, one of the new Lord Keeper's personal friends, called to congratulate him on his elevation, and has thus described Sir Francis North at this stage of his career :

"He is a most knowing learned and ingenious person ; and besides having an excellent person of an ingenuous and sweet disposition, very skilful in Music, painting the new philosophy and political studies." <sup>7</sup>

At this time it was the practice for the holder of the Great Seal to transact much of the Chancery business at his own house, and as the residence of the late Lord Nottingham in Queen Street, Lincoln's Inn Fields, where a Court had been fitted up for the purpose, was not immediately available, Sir Francis heard his first motions and causes in the Middle Temple Hall.<sup>8</sup>

<sup>1</sup> See *ante*, p. 471.

<sup>2</sup> London Gazette, No. 958.

<sup>3</sup> Lives of the Norths, I, 255 (§ 292).

<sup>4</sup> Diary, January 23rd, 1682/3.

<sup>2</sup> Tabulæ Curiales, 65.

<sup>4</sup> *Ibid.* No. 1783.

<sup>6</sup> *Ibid.*

<sup>8</sup> Lives, I, 256, 257 (§ 293).

Nine months later, on September 26th, 1683, he was raised to the Peerage as Baron Guilford.<sup>1</sup> On his appointment to the Common Pleas he had found the Court denuded of business, and successfully devoted his energies to reviving its prosperity. In Equity the position was very different. There, under Lord Nottingham, the work of the Court had greatly increased, occasioning serious delay in the trial of causes. This delay and the excessive charges by which suitors were harassed, says Roger North, caused much distress to the sensitive mind of the new Lord Keeper. He manfully applied himself, however, to the discharge of his new duties with an earnest desire to mitigate these evils, but his tenure of office was short, for under the combined strain of his judicial labours and the political anxieties of his position, his health soon began to fail, and in the first year of the reign of King James II, on September 5th, 1685, he died in the forty-eighth year of his age.<sup>2</sup>

Since the accession of that Monarch the less scrupulous and more daring Jeffreys had largely supplanted him in the royal confidence, and even had he lived it is doubtful whether Lord Guilford would have been allowed to retain the Seal much longer. King James expressed no regret on being informed of his death, and when his brothers returned to the royal hands the symbol of his office, accepted the Seal without further remark than the inquiry if there was never a purse to contain it.<sup>3</sup>

Fortunate in his family life, the moral character of Lord Guilford, in an age befouled by unbridled licence, stands above reproach. His best work as a Judge was done in the Common Pleas, where he soon established a complete mastery over the business of his Court and conducted it with impartiality and dispatch. He appears to least advantage in the trials arising out of the Popish Plot, for though his brother suggests that the Chief Justice early doubted the testimony of Oates and his fellows, he showed no independence in this matter, did not venture to denounce the informers, and seems to have suffered his judgment to be overborne by the frenzy of the popular belief in their wicked inventions. A greater man would have taken a bolder course. But at the same time it must not be forgotten that to have done so would have required no ordinary courage, for so great was the national infatuation that when Chief Justice Sir William Scroggs, who at first had pressed

<sup>1</sup> London Gazette, No. 1863.

<sup>2</sup> Lives of the Norths, I, 352 (§ 386).

<sup>3</sup> *Ibid.* 352 (§ 387).



convictions for the Plot with indecent vehemence, began to doubt the informers' evidence and favour acquittals, the House of Commons made it one of the grounds of their resolution to impeach him that he had scandalized the perjured witnesses by disparaging their evidence and taking off their credit.<sup>1</sup> It is as presiding Judge at the trial of Stephen Colledge (known as the Protestant Joiner) on a charge of high treason before an Oxford Jury on August 17th, 1681,<sup>2</sup> that his conduct on the Bench has been most severely criticized. In that case papers prepared for the prisoner by his friends, to enable him to conduct his defence, were taken from him on the morning of his trial, and when he complained to the Court and asked for their return, his application was resisted by Counsel for the Crown on the ground that to allow him the use of these papers was to permit him to have legal assistance which the Law then denied to a prisoner arraigned on a charge of treason. Instead of ordering the papers to be restored to the accused the Chief Justice temporized, professing ignorance of the whole matter, and when the prisoner pressed his application, adjourned the Court for the papers to be examined. Eventually most of them were returned, but in the mean time the King's advocates had been made familiar with the intended line of defence, and enabled to trim their case to meet it. A cruel advantage where the defendant was on trial for his life. Nor was the summing up of the learned Judge less open to objection. For at the close of a long trial<sup>3</sup> it practically ignored the large body of evidence the prisoner had called contradicting the witnesses for the Crown, and which, if believed by the Jury, should have ensured his acquittal. Indeed, the whole report of this case leaves the impression on the mind of the reader that the accused was convicted before he was tried.<sup>4</sup> Nor does the circumstance that Colledge, who had formerly shown himself a noisy and violent demagogue, would probably have welcomed with glee the conviction of an innocent Papist by similar methods, exonerate the Judge who thus failed to hold the scales of Justice even. The verdict of guilty which the Jury returned is said by Lord Macaulay to have been received with a roar of approval, but the testimony of the witnesses who secured it had been largely discredited during this trial,

<sup>1</sup> Com. Journ. IX, 698 (Art. VII); Parl. Hist. IV, 1276, 1277.

<sup>2</sup> State Trials, VIII, 550-723.

<sup>3</sup> The trial began at 9 a.m. and did not conclude till 2 a.m. on the following morning: Lives of the Norths, III, 162 (§ 207).

<sup>4</sup> See Stephen's Hist. Crim. Law, I, 407.

and when Colledge died bravely, protesting to the last his innocence, the public mind became disturbed by an uneasy feeling that he had been wrongly convicted.

“Many doe really think the witnesses against him forsworn,” wrote Luttrell. “This is most certain, here is an end of the popish plott for Mr. Dugdale Mr. Smith and Mr. Turberville three principal witnesses of that plott have quite lost their credit and are absolutely ruined.”<sup>1</sup>

This, however, is the only serious blot on Lord Guilford's reputation as a Judge, and reviewing his career in the light of the times in which he lived, it must still be conceded that his public services and private virtues entitle him to a high place on the roll of distinguished men called to the Bar at the Middle Temple. It has been his misfortune to have been pursued by the rancour of political prejudice even in the grave. The account of his career given by Lord Campbell, which twists even his virtues into vices, has been accurately described as a piece of writing than which there is probably nothing more venomous in English literature.<sup>2</sup> A distorted picture and flagrantly unjust, it yet possesses a certain nauseating interest as a masterpiece in calculated malice.<sup>3</sup> In view of that diatribe which depicts Lord Guilford as “selfish, cunning, sneaking and unprincipled,” and one who sought and obtained advancement by the meanest arts, it will be of interest to quote one sentence from the very different estimate of the Lord Keeper's character in Mr. Henry Roscoe's *Lives of Eminent British Lawyers* :

“The fervent attachment, the regard approaching to reverence which were felt for him by his brothers and which are so quaintly but beautifully expressed by his biographer [Roger North] bear a striking testimony to the worth and goodness of his heart.”<sup>4</sup>

<sup>1</sup> Brief Relation, I, 123 (September 4th, 1681).

<sup>2</sup> Dr. Jessop in D.N.B. XLI, 158.

<sup>3</sup> It might have been expected that Lord Campbell when he thought it necessary to criticise adversely the conduct of one of his predecessors, would have done so with regret and scrupulous attention to accuracy in his statements. But that is not at all his manner. Everything is sacrificed to a flamboyant effect. He never writes with more reckless assurance than when he is drawing damnatory inferences from perverted or imagined facts. No wonder it has been said that his “Lives” are among the most censurable publications in our literature, and that no one who has ever followed him to the sources of his information will trust him more : D.N.B. VIII, 383.

<sup>4</sup> Edit. 1830, p. 110.

In the hands of Lord Guilford's successor the keeping of the Great Seal returned to the Inner Temple. Under the date September 28th, 1685, the following announcement appeared in the London Gazette :

“ His Majesty taking into his royal consideration the many eminent and faithful services which the right honorable George Lord Jeffreys of Wem Lord Chief Justice of England has rendered the Crown as well in the Raign of the late King of ever blessed memory as since his Majesties accession to the Throne was pleased this day to commit to him the custody of the Great Seal of England with the Title of Lord Chancellor.” <sup>1</sup>

In every respect the new custodian differed from his predecessor. Resolute and bold to rashness, he knew no middle courses, despising all who followed such as “ Trimmers.” Having early elected to serve the King's Government, he had no scruples as to means, for all who resisted it were traitors in his sight. Plodding industry and unwearied devotion to the study of law had raised Lord Guilford to eminence. Lord Jeffreys had little of the habits of a student, but possessed in a remarkable degree that valuable faculty of legal intuition which disentangles what is immaterial and goes directly to the heart of a problem. Lord Guilford had been the embodiment of propriety respecting all the decencies of life. His successor cared nothing for conventions, and, in an age when Society was indulgent to excesses of the table, yet became notorious for the depth of his potations. No man has been more feared on the Bench or left a more hated memory. Successive writers have painted his portrait in the darkest colours. It has long been the fashion to describe him as the worst Judge who ever sat in Westminster Hall. Mr. Foss, in his learned and valuable work on the Lives of the Judges, even deemed it necessary to apologize for giving any account of him, averring that the “ disgusting details ” of Lord Jeffreys' life were so generally known as to make their relation “ but a repulsive repetition.” <sup>2</sup> Yet he was never charged with corruption like Lord Bacon, never guilty as Counsel of conduct so disgraceful as the behaviour of Sir Edward Coke at the trial of Raleigh, and no exception seems to have been taken to any of his decisions in Chancery. The contemporary portraits of him, which still exist, only deepen the enigma of his character,

<sup>1</sup> Gazette, No. 2073.

<sup>2</sup> Judges, VIII, 226.

for they exhibit a handsome and refined face not lacking in distinction, and convey no suggestion of a besotted life, or of the "ferocious mouth" given him by Lord Macaulay,<sup>1</sup> or that glance reputed to have been so terrible in wrath that few men could endure it.<sup>2</sup> Space here will only admit of a brief notice of the salient features of his career, but it may be premised that modern opinion has shown a tendency to appreciate him which would have been deemed indecent two generations ago, and, more surprising still, that the highest tribute to his "splendid legal talents" has come not from an English but an American writer.<sup>3</sup>

This remarkable man was born in the year 1648 at Acton House, near Wrexham, in the County of Denbigh.<sup>4</sup> His father, John Jeffreys, was of gentle lineage, and claimed descent from Tudor Trevor Earl of Hereford, while his mother was the daughter of Sir Thomas Ireland of Bewsey in the County of Lancaster. His origin was thus respectable, and as his parents led quiet and unobtrusive lives, their reputations have remained untouched by "the blast of public breath," and nothing is known of them which is not to their credit. Three schools had a share in his early education—Shrewsbury, St. Paul's, and Westminster School. In 1662 he entered Trinity College, Cambridge; but his residence there must have been brief, for on May 19th in the following year, he was admitted a member of the Inner Temple Society, and called to the Bar on November 22nd, 1668, after the then short interval of five and a half years.<sup>5</sup> From this it may be inferred that if, as alleged by his enemies, he was a constant frequenter of taverns, he had nevertheless not neglected Moots and other aids to learning. Possessing no family influence in the House, his selection by Reader Goodfellow during the Lent Reading of 1668 as that gentleman's spokesman to the Lord Mayor in the delicate mission already described,<sup>6</sup> suggests that even at this early stage of his career he had given proof of the tact and ability which afterwards distinguished him as an advocate. Endowed by nature with a handsome presence, a commanding voice, and a ready tongue,

<sup>1</sup> Hist. I, 644.

<sup>2</sup> One of these portraits (of Jeffreys as Recorder) is in the London National Portrait Gallery.

<sup>3</sup> Anglo-American Select Essays (Legal History), I, 705.

<sup>4</sup> For a careful review of Lord Jeffreys' career, see his Life by the late Mr. H. B. Irving (1898).

<sup>5</sup> Transcript of Admissions Bk. (1659-1670), 918; A.P. IV, 27.

<sup>6</sup> See *ante*, p. 478.



Jeffreys at once secured abundant employment in the City Courts and at Middlesex Sessions, and so impressed the City Authorities that on March 17th, 1671, at the phenomenally early age of twenty-three, he was chosen Common Serjeant of the City of London.<sup>1</sup> On September 14th, 1677, he received the honour of knighthood, and the same year was appointed Solicitor-General to the Duke of York, and on January 27th, elected a Bencher of his Inn.<sup>2</sup> Meanwhile he had been gathering the more substantial fruits of professional success in a rapidly growing practice, and had outdistanced all competitors in capturing at Guildhall the ear of that very learned Judge, Sir Matthew Hale, over whom his enemy, Roger North, declares he gained as great an ascendant as ever Counsel had over Judge.<sup>3</sup> In 1678 he was able to purchase Bulstrode, a property in Buckinghamshire, which may be accepted as proof of the substantial nature of his professional gains. Here King Charles honoured the rising lawyer by dining with him in August of the same year.<sup>4</sup> Thus smiled on by Court and City, Jeffreys was elected two months later, at the age of thirty, Recorder of London.<sup>5</sup> Other honours soon followed. On April 30th, 1680, he was appointed Chief Justice of Chester, and twelve days later created a Serjeant-at-Law.<sup>6</sup> The remarkable success he had thus far attained has been commonly represented as secured by debauchery and back-stairs intrigues and the reward of ignorance reinforced by effrontery. But this affords no adequate explanation of his meteoric rise, and ignores the fact which all must admit who have followed his record in the State Trials, that he possessed a mind of extraordinary power and supreme gifts as an advocate. His tenure of the office of Recorder, however, was brief. Lord Shaftesbury and his supporters were clamouring for the exclusion of the Duke of York from the throne, and through actively assisting those who petitioned the

<sup>1</sup> Woolrych's Judge Jeffreys, 25.

<sup>2</sup> A.P. IV, 81; Shaw, II, 252.

<sup>3</sup> Lives of the Norths, I, § 83; III, § 127. North's statement that this was done by small civilities "a partridge or two upon a plate and a pipe after," refutes itself by its inherent silliness.

<sup>4</sup> Hist. MSS. Com. (Verney Papers), 7th Report (1879), 434.

<sup>5</sup> October 22nd, 1678.

<sup>6</sup> London Gazette, No. 1508; *ibid.* No. 1511. There were ten other Serjeants of this call. The ancient ceremonial was still observed, see Gazette, No. 1512, under date May 15: "The late elected and sworn Serjeants-at-Law did this day perform the Ceremony of walking in their Coifs to Westminster from Gray's Inn accompanied with a very great Train of gentlemen of the long Robe from out of all the Societies of the Law and afterwards entertained the Nobility and Judges very splendidly at Serjeants-Inn-Hall in Fleet street."

King to defeat them by not summoning Parliament, Jeffreys incurred the anger of the Commons. Thus, when Parliament at last met, the House adopted an address to his Majesty on November 13th, 1680, "to remove Sir George Jefferyes out of all publick offices."<sup>1</sup> It is not probable that Charles himself would have taken any action in the matter, but Jeffreys, having obtained the royal permission to do so, resigned on December 2nd his office of Recorder—a step upon which the King is said to have passed the comment that Sir George Jeffreys was not Parliament proof.<sup>2</sup> He retained his other offices, but the House appears to have subjected him to their favourite form of humiliation by compelling him to apologize on his knees and submit to a reprimand from the Speaker.<sup>3</sup>

In the trials which arose out of the alleged Popish Plot Jeffreys took part either as Recorder or as Counsel for the Crown, and on November 17th, 1681, he was given the further honour of a baronetcy.<sup>4</sup> In the prosecutions which followed the discovery of the Ryehouse Plot he was also concerned. At the trial of Lord Russell before Chief Justice Pemberton, in July, 1683, he made the closing speech for the prosecution. A closely reasoned statement, it may still be read in the State Trials.<sup>5</sup> To Bishop Burnet it appeared "only an insolent declamation full of fury and indecent invective."<sup>6</sup> At that time the place of Chief Justice of the King's Bench was vacant owing to the death of Sir Edmund Saunders, and on September 29th, Sir George Jeffreys, who was then thirty-five years of age, was appointed to the office.<sup>7</sup> He thus presided over the trial of Algernon Sidney for high treason held on November 21st, 1683.<sup>8</sup> Regarding Sidney as a dangerous traitor, Jeffreys has been denounced for treating him harshly, though why he should have treated tenderly an avowed enemy of the Crown in the pay of the French King, and eagerly awaiting a favourable opportunity to give effect to his political theories by renewing civil war in England, is not apparent. Sidney's conviction, like that of Lord Russell, was reversed by the Revolution

<sup>1</sup> Com. Journ. IX, 653.

<sup>2</sup> North's Examen, § 649.

<sup>3</sup> The Commons Journals contain no record of this, but from a rejoinder to a witness during the trial of Colledge, Jeffreys himself seems to have admitted the incident: see State Trials, VIII, 634.

<sup>4</sup> Burke, Extinct Baronetcies.

<sup>5</sup> Vol. IX, 631-634.

<sup>6</sup> Own Times, II, 379.

<sup>7</sup> London Gazette, No. 1864.

<sup>8</sup> State Trials, IX, 818-1022; Luttrell, I, 287-293.

Parliament in 1689, but as the law stood at the time of these trials, it cannot safely be affirmed that either conviction was vitiated by any illegality.<sup>1</sup>

Jeffreys held the office of Chief Justice for only two years,<sup>2</sup> but during that time he acquired a reputation the most unenviable which has ever attached to an English Judge. This seems to have been chiefly due to a belief in his cruelty, the quality most repugnant to the English mind. Certainly, if the reports in the State Trials can be trusted, there was much in his callous treatment of some of the prisoners he tried and sentenced to justify that belief. In cases in which the Crown was concerned the vehemence with which he often pressed for convictions would now be reprobated even in a prosecuting Counsel. His conduct at the trial of Richard Baxter, the distinguished Nonconformist divine, tried before him on a charge of seditious libel on May 30th, 1685, and at the trials of the Western rebels after the suppression of Monmouth's rising, in particular has come under condemnation. There is no satisfactory report of Baxter's case,<sup>3</sup> and all that is known about it comes from a hostile source. But even allowing for some exaggeration, it seems difficult to avoid the conclusion that Jeffreys, who undoubtedly regarded dissenting ministers as bellwethers of rebellion, refused to hear any defence, and, in his intemperate zeal for the Crown, showered upon the accused, a clergyman eminent for his piety and learning, extravagant abuse from the Bench.

In the commission of oyer and terminer and general gaol

<sup>1</sup> On this Sir Jas. Stephen (certainly no favourer of Jeffreys) has written: "The grounds on which the attainders of Russell and Sidney were reversed appear to me doubtful. They were in each case refusal of the challenge of jurors for want of freehold and 'partial and unjust constructions of law' (unspecified). Any one who will read the arguments as to the question of jurors will I think agree with me that the law upon the subject was at that time utterly uncertain there being no direct authority upon it till the question was settled by the Bill of Rights (1 Wm. & Mary St. II, c. 2). This Act converted many doubtful propositions into law by saying that they were 'antient rights and privileges' when all that could truly have been said was that it would have been well to act upon that supposition in the past and that for the future the matters stated should be held to be law": *Hist. Crim. Law*, I, 411, 412. On the trial of Lord Russell, see *ibid.* 409: "The Chief Justice's direction to the jury was more favourable than according to precedents still binding it ought to have been."

<sup>2</sup> On May 15th, 1685, he was raised to the Peerage as Lord Jeffreys of Wem in the County of Salop. The first Chief Justice so honoured: *London Gazette*, No. 2034.

<sup>3</sup> The account in the State Trials is taken from Calamy's *Life of Baxter*. Lord Macaulay also relied on MS. notes published by Orme in his *Life of Baxter* (1830): see *Hist. I*, 494.



delivery which the King issued for the trial of the Western rebels, four other Judges were associated with the Chief Justice—Chief Baron Montague, Sir Creswell Levinz, Sir Francis Withins, and Sir Robert Wright. It is a striking proof of the dominance of Jeffreys' personality that the odium of these trials, known as the "Bloody Assizes," has attached exclusively to the Chief Justice, the memory of the Judges who sat with him and shared his responsibility<sup>1</sup> having been allowed to sink into a merciful oblivion; while Henry Pollexfen, a Bencher of the Inner Temple, who acted as leading Counsel for the Crown, not only escaped all ill consequences, but was rewarded with high judicial office after the Revolution of 1688.<sup>2</sup>

The sittings opened at Winchester on August 25th, 1685, and on October 3rd the Judges were back at Windsor receiving the thanks of the King.<sup>3</sup> Between those dates (excluding Bristol, which had a separate Assize) six towns had been visited—Winchester for Southampton County, Salisbury for Wilts, Dorchester for Dorset, Exeter for Devon, and Taunton and Wells for Somerset. The majority of the rebels were dissenters, who regarded rebellion against a Popish King almost as a religious duty, and many gloried in their treason. Except in the case of Dame Alice Lisle (which will be noticed later) there is no reliable report of any of the trials on this Circuit, nevertheless afterwards extravagant accounts<sup>4</sup> were circulated by the friends of the accused representing them as Protestant Martyrs, which have been adopted and repeated by successive writers with little attempt to check their accuracy. Thus the whole matter

<sup>1</sup> "Although during the circuit one or other of these Judges was probably trying civil cases and it may have been that one was also trying the minor charges in a second Court yet the five Judges met, consulted and lodged together day by day and whatever of ignominy rests upon the Commissioners of this Assize must be borne jointly by all": *Side Lights on the Stuarts*, by F. A. Inderwick, Q.C. 372.

<sup>2</sup> C.J. of the Common Pleas: *London Gazette*, No. 2450.

<sup>3</sup> *Bramston's Autobiog.* No. 32 (Camden Society), 207.

<sup>4</sup> See *The Western Martyrology or Bloody Assizes*, 5th Edit. 1705. In illustration of such exaggeration may be mentioned the case of John Tutchin who, charged at Dorchester with seditious words under the alias of Thomas Pitts, pleaded guilty to having spread news which he knew to be false in order to induce the country people to rebel. This man was alleged to have received from Jeffreys a sentence which meant a whipping once a fortnight for seven years. In fact, as the gaol calendar proves, his sentence was a fine of five marks, a whipping, and imprisonment for seven years. This gross misrepresentation, which is attributed to Tutchin himself, has long been accepted as the truth, and was embellished by Lord Macaulay with all his usual rhetorical skill: see *Hist. I.*, 650. At this time Tutchin was twenty-four years of age, and not the mere boy of Macaulay's narrative. Smitten by smallpox he escaped his whipping, and only suffered a few months' confinement.



has been obscured by a cloud of fable out of which looms, gigantic and horrific, the figure of a solitary remorseless Judge delighting in slaughter and dealing death and devastation on all hands. In particular, the number executed has been grossly exaggerated. Bishop Burnet, who was abroad at the time, ignoring the other Judges (as has been invariably done), declared that Jeffreys hanged about 600 persons ;<sup>1</sup> Serjeant Woolrych was content to put the figure at 394 ;<sup>2</sup> Lord Campbell states that the enemy killed in this campaign by Jeffreys before he turned homewards to pounce on the Great Seal numbered 330 ;<sup>3</sup> while Lord Macaulay makes the positive assertion that "the number of rebels Jeffreys hanged on this Circuit was 320."<sup>4</sup> The gaol calendars for these Assizes which have now been published have at last revealed the true facts.<sup>5</sup> They contain the names of the prisoners indicted, their pleas and sentences, and seem to have been carefully kept. They prove that 1381 rebels pleaded or were found guilty of high treason,<sup>6</sup> and that of these 65 were ordered by the Judges for execution during the Circuit. They further show that instead of pursuing a ruthless policy of indiscriminate hanging the Judges at Taunton and Wells stayed their hands until the King could be consulted and his wishes known, thus leaving more than 1000 cases of convicted rebels for further consideration in London. How these further cases of treason were dealt with appears by a Treasury record dated November 12th of this year,<sup>7</sup> and while Jeffreys as chief legal adviser of the Crown must bear responsibility for these further orders, it is evident they were issued after consultation with the Government and not on his sole initiative. This record shows that at that date 22 additional executions had taken place, making a total of 87, and that 230 more prisoners had been listed to be executed. How many of these in fact suffered the death sentence remains uncertain, but for reasons which he has indicated and which seem sufficient, Mr. Inderwick was of

<sup>1</sup> Own Times, I, 648 ; Edit. 1833, III, 64.

<sup>2</sup> Memoirs of Judge Jeffreys, 203-223.

<sup>3</sup> Chancellors, III, 546.

<sup>4</sup> Hist. I, 502.

<sup>5</sup> Side Lights on the Stuarts, by F. A. Inderwick, Q.C. (1888), Appendix 398-427.

<sup>6</sup> Many besides were guilty of sedition and other minor offences.

<sup>7</sup> Treasury Books, Outletters (General), T. 27, Vol. IX, 185. Account of proceedings against Rebels and other prisoners in the several Counties of Southampton, Wilts, Dorset, Devon, and Somerset, by virtue of the special Commission directed to Geo. Lord Jeffreys L.C.J. of England and other Judges, dated July 8th, 1685.

opinion that the final figure for all the executions of rebels during and that followed this Assize cannot be placed higher than 150, or ten per cent. of those convicted.<sup>1</sup> This, however, was only part of the heavy punishment meted out for this rebellion, for in round figures 850 of the rebels who escaped the supreme penalty which they had incurred for treason, were ordered to be transported for terms of years. In this matter control seems from an early date to have been reserved by the King to himself,<sup>2</sup> and all decisions upon it taken in London, where, according to the discreditable practice of the times, prisoners listed for this punishment were allotted to various persons<sup>3</sup> the King chose to favour, with such profits as were to be made by selling them to West India Planters. For these orders also, though the initiative lay with the King, Jeffreys as a consenting party must bear his share of responsibility.

The case of Dame Alice Lisle remains to be noticed. The widow of John Lisle, the regicide and one of Cromwell's Lords,<sup>4</sup> she was tried at Winchester on August 27th on a charge of receiving, aiding, and assisting John Hicks, a rebel, against the King.<sup>5</sup> This trial, while it illustrates Jeffreys' power, also reveals him at his worst in his callous treatment of the prisoner, an aged lady of hitherto blameless life, and the violence of the language he used to an unwilling and prevaricating witness for the prosecution from whom at the request of the leading counsel<sup>6</sup> for the Crown, he step by step dragged the truth in an otherwise masterly cross-examination.<sup>7</sup> Influenced, no doubt, by the sex, age, and social position of the accused, the jury showed an unwillingness to find her guilty, and only did so under strong pressure from the Judge. A perusal of the evidence carries the conviction that the verdict was right, but as certainly the case was one in which a capital sentence should never have been enforced. Great efforts were made to save this lady's life, but the Judges would make no recommendation to mercy, and the King refused to do more than commute the Law's

<sup>1</sup> Side Lights on the Stuarts, 388-393.

<sup>2</sup> See Jeffreys' Letter to the King, September 19th, 1685: State Papers (Record Office), James II, Vol. I.

<sup>3</sup> The Queen was allotted 98, Jerome Nipho 100, Sir Wm. Booth 195, Sir Wm. Stapleton 103, Sir Christopher Musgrave 100, Sir Wm. Howard 200, and Capt. Price 50. See Treasury Books (Record Office), T. 27, Vol. IX, 186-197.

<sup>4</sup> Hence the title of Dame usually conceded her.

<sup>5</sup> State Trials, XI, 298-382. As this was the last case taken at Winchester and the only charge of treason there, it may be inferred that all the Judges took part in it.

<sup>6</sup> *Ibid.* 325.

<sup>7</sup> *Ibid.* 325-359.

sentence of burning to one of beheading. The Revolution Parliament of 1689 reversed the conviction on the ground that Hicks, about whose share in the rebellion there was no doubt whatever, and who was afterwards convicted and executed, had not been convicted at the time of this trial.<sup>1</sup> But that (as in other cases) was *ex post facto* law made for the occasion,<sup>2</sup> and in his ruling that the point was immaterial, the Judges who sat with Jeffreys, and expressed no dissent, must be taken to have concurred. Finally, although Jeffreys' severity at these Assizes has been greatly exaggerated, it still remains true that the treatment meted out to the rebels is a lasting stain upon his reputation. For even taking the most favourable view that he was merely the instrument of royal policy, his slavish submission to the King made him a willing partner in acts of vengeance which have justly loaded with obliquy the memory of James II.

For his work at these Assizes Lord Jeffreys received the Great Seal with the title of Lord Chancellor, and the public recognition of his services to the Crown which has been already set forth. In the following January, by virtue of his new office, he presided as Lord High Steward over the trial of Lord Delamere<sup>3</sup> for high treason upon a charge of plotting a rising in Cheshire in support of Monmouth's rebellion.

Five years before, as Mr. Henry Booth, the arraigned Peer had violently attacked Jeffreys, then Chief Justice of Chester, in the House of Commons, likening him to a "Jack Pudding," and otherwise abusing him in his office.<sup>4</sup> The recollection of this must have been fresh in Jeffreys' mind, but it resulted in no ill consequences to the accused, for he presided over the proceedings with dignity and fairness, reminding the Tribunal that the witness upon whose evidence the case for the Crown depended had been positively contradicted by divers witnesses of quality, and directing them that if they rejected his testimony it was their duty to acquit. Which they accordingly did.

<sup>1</sup> State Trials, XI, 381, 382.

<sup>2</sup> "I think this is another of the numerous instances in which there was really no law at all and in which the fact that a particular course was taken by a cruel man for a bad purpose has been regarded as proof that the course taken was illegal," per Sir Jas. Stephen, Hist. Crim. Law, I, 413. Why the conviction of a guilty person is a "bad purpose" the learned Judge does not explain.

<sup>3</sup> State Trials, XI, 510-599. As Parliament was not in session this trial was before thirty Lords Triers chosen for the occasion. Lord Macaulay alleges erroneously that Jeffreys conducted himself insolently and unjustly: Hist. II, 40.

<sup>4</sup> Woolrych, Judge Jeffreys, 66, 67.

A very different verdict must be passed upon Lord Jeffreys' political conduct as Keeper of the Great Seal. "Upon my allegiance to your Majestie," he had written from Taunton during the Western Assizes, "I shall never trimme in my obedience to your commands in all things."<sup>1</sup> And he kept his word. Thus King James, set on Romanizing England against the will of the nation, found in every step he took to that end a ready tool in the Chancellor of his choice, who, rather than lose the royal favour on which his place depended, was prepared to commit any violence against the laws it was his duty to safeguard and maintain. Hence, religious tests imposed by Parliament were got rid of by a pretended dispensing power, Judges thought not to be sufficiently pliant were displaced,<sup>2</sup> Corporations were forced to surrender their charters, and the Court of High Commission (abolished in 1640) was illegally set up once more under another name by royal patent,<sup>3</sup> and used under Jeffreys' presidency to attack the Church as by law established, and violate, in the interests of Rome, the rights and privileges of both Universities.<sup>4</sup> No wonder the aged Serjeant Maynard, when congratulated later by William of Orange on having outlived all his contemporaries, replied, "I had like to have outlived the Law itself had your Highness not come over."<sup>5</sup>

The culminating folly came with the prosecution of the seven Bishops for their respectful remonstrance against the clergy being required to read in the churches the King's illegal declaration of indulgence. Whether Jeffreys himself advised this proceeding remains uncertain, but, at least, he did nothing to prevent it, and as legal adviser of the Crown, must share the responsibility.<sup>6</sup> Not until the Prince of Orange was knocking at the gate did James II and his Chancellor awake to the full peril of their position. Then indeed, when too late, the forfeited charter of the City was hurriedly returned to Guildhall, and the new Court of Ecclesiastical Commission abolished with all its works.<sup>7</sup> "Oh rare invasion," wrote Narcissus Luttrell, "to occasion so many gracious acts in restoring things to their old foundation which hath been the work of some years past

<sup>1</sup> State Papers (Record Office), James II, Vol. I, September 19th, 1685.

<sup>2</sup> Twelve Common Law Judges were superseded during Jeffreys' Chancellorship: Foss, VII, 201, 206.

<sup>3</sup> State Trials, XI, 1123.

<sup>4</sup> *Ibid.* XI, 1126, 1315-1340; XII, 1-114.

<sup>5</sup> Foss, VII, 331.

<sup>6</sup> State Trials, XII, 183-524.

<sup>7</sup> Luttrell, I, 465, 466.



to unhinge.”<sup>1</sup> On November 28th, 1688, Lord Jeffreys made his last appearance at Westminster to acquaint the Bench and Bar that his Majesty had been pleased to command him to issue writs at once for a free Parliament.<sup>2</sup> For a few days longer he continued to discharge the duties of his office. But the sands had run out, and on December 8th, in response to a royal request, he surrendered the Great Seal into the King’s hand.<sup>3</sup> The rest of his story, his desertion by his master and attempt to seek safety in flight, his detection at Wapping disguised as a common seaman, his conveyance to the Mansion House and thence to the Tower amid the execrations of the mob, and his death there on April 18th, 1689, at the age of forty-one, the victim of a disease aggravated, if not induced, by his intemperate habits, has been so often told as to need no detailed repetition here.

Beyond question Lord Jeffreys’ subservience to the Crown has been his undoing with posterity. The triumph of the Whigs, to whom he was anathema, left his memory at the mercy of political enemies, and the patriots who were so blinded by party passion that they even petitioned William III to endow with a pension that odious scoundrel, Titus Oates, who had fattened on perjury and whose trade had been murder,<sup>4</sup> naturally had no scruples about blackening the reputation of one whom they had hated and feared as a dangerous adversary. Removed from the heat and passions of what was perhaps the most discreditable period in English Parliamentary History, it is possible to recognize to-day that with all his faults Lord Jeffreys as a Judge had great and conspicuous merits. From both sides in politics has come the same tribute to his eminence. Sir Joseph Jekyll, a convinced Whig, has testified that he made a great Chancellor, and in private matters was thought an able and upright Judge wherever he sat.<sup>5</sup> While Roger North, an extreme Tory, though loathing him as the supplanter of his venerated brother, was constrained to admit that when matters indifferent came before him, Lord Jeffreys became the seat of justice better than any other he ever saw in that place.<sup>6</sup> Among those who in later times have reviewed his career, it is of interest

<sup>1</sup> Luttrell, I, 468.

<sup>2</sup> *Ibid.* 480: London Gazette, No. 2405.

<sup>3</sup> To be thrown into the Thames two days later.

<sup>4</sup> “Oates had directly or indirectly contrived the judicial murder of some 35 men”: D.N.B. XLI, 296–303, see 300.

<sup>5</sup> Burnet’s Own Times, I, 568, note.

<sup>6</sup> Lives of the Norths, I, § 337.

to compare with the derogatory opinion of Lord Campbell, who gives to Vernon the credit of dressing up some of Jeffreys' decisions in Chancery so as to make them look respectable,<sup>1</sup> the very different view of a modern American authority :

“ Best witness of all are his recorded judgments. The incomparable stupidity of Vernon the Reporter has destroyed the value of *Eustace v. Kildare* and of the *Attorney-General v. Vernon*, but his decision in the East India Company's case is admitted by all lawyers to be a marvel of legal reasoning. . . . A master of the Common Law he was yet a great Chancellor. He promulgated a set of rules in Chancery the best since Bacon's time.”<sup>2</sup>

In one instance even Lord Campbell has felt compelled to pay a tribute of praise to Lord Jeffreys as a Judge.

“ His summing up,” he writes, “ in what is called the Lady Ivy's Case,<sup>3</sup> an action between her and the Dean and Chapter of St. Paul's to recover a large estate at Shadwell, is most masterly. The evidence was exceedingly complicated, and he gives a beautiful sketch of the whole, both documentary and parol; and without taking the case from the jury he makes some admirable observations on certain deeds produced by the Lady Ivy which led to the conclusion that they were forged and to a verdict for the Dean and Chapter.”<sup>4</sup>

In view of the fact that the most strenuous attacks on his reputation as a lawyer have been made in the domain of criminal justice, it is remarkable to find Sir James Stephen, in his Survey of the Criminal Trials of Lord Jeffreys' time, bracketing with the trial of Viscount Stafford, over which Lord Nottingham (then Lord Finch) presided, the trial of John Giles before Jeffreys, when Recorder, for the attempted murder of Arnold, the Monmouthshire magistrate, as conspicuous for the fairness and decency with which it was conducted.<sup>5</sup> One more tribute from

<sup>1</sup> Chancellors, III, 583.

<sup>2</sup> John Maxcy Lane in Anglo-American Select Essays, I, 707.

<sup>3</sup> St. Trials, X, 555-646.

<sup>4</sup> Chancellors, III, 582.

<sup>5</sup> Hist. Crim. Law, I, 396.

the same American authority, this time to Jeffreys as Counsel, may be quoted here :

“ To see Jeffreys at his best, we should see him in the trial of Lord Grey de Werke. Jeffreys’ skill and adroitness in putting in the evidence against the great Whig Lord, the brazen seducer of his own wife’s sixteen-years-old sister ; his gentleness and exquisite suavity toward his witnesses, his few words of apology to the Court for the tears of the victim’s Mother, are models of forensic decorum. In his tact, his delicate management, never a word too much, now and then putting a question to bring out some point that had been overlooked, Jeffreys shows throughout the skill of a master.” <sup>1</sup>

The Benchers of the Inner Temple paid Lord Jeffreys the unique honour of having his portrait painted as Lord Chancellor and hung in their hall ; and it is noticeable that this they did in the year 1687, after the happening of nearly all the incidents in his career which have since been regarded as rendering his memory infamous.<sup>2</sup> When he had died miserably and under eclipse they took the painting down, hid it in private chambers, and eventually gave it away, glad apparently to be rid of an embarrassing possession.<sup>3</sup> It would be interesting to know whether their successors have ever regretted that action which has deprived their House of an interesting memorial of a former member who, if by “ nature cruel and a slave of the Court,” <sup>4</sup> nevertheless no longer in justice can be denied a place upon the roll of the great names of English Law.

<sup>1</sup> Anglo-Am. Essays, I, 707.

<sup>2</sup> I.T.R. III, Intro. iv ; Gen. Acct. Bk. 1686-7.

<sup>3</sup> B.T.O. III, February 9th, 1693 ; see *post*, p. 666.

<sup>4</sup> Evelyn’s Diary, October 31st, 1685.

## CHAPTER XV

### NEIGHBOURING TAVERNS AND WHITEFRIARS

AMONG the shops and other business premises which shut off the Temple from Fleet Street were many of those taverns and victualling houses which played so important a part in London life in the seventeenth century. When clubs were unknown and newspapers had hardly begun to exist, such places of public entertainment were the natural meeting-ground of all who desired to hear or relate the news of the day. Fleet Street abounded in them, and nowhere were those of the reputable class more numerous than in the vicinity of the Temple. Hence the young lawyer who desired to find relief from the monotony of the Collegiate fare provided in the hall of his Inn by taking his bodily refreshment at a house of public resort, had ample facilities for so doing, and of these facilities some account must now be given.

One of the oldest and probably the most widely known of these houses of public entertainment was the tavern of St. Dunstan and the Devil : so named from its sign which showed that time-honoured Saxon Ecclesiastic pulling the Devil's nose. This tavern was situate on the west side of Middle Temple Lane, near the Great Gate of the Temple, but some way back from the street front. Adjoining it at one time were two smaller victualling houses, one called the Sugar Loaf and Green Lettice at the back of St. Dunstan's, and the other fronting on to the street and next the Middle Temple Gatehouse, known as the Marygold. The ground covered by these houses eventually became the property of Messrs. Child, who still to-day carry on here the banking business founded by Robert Blanchard at the Marygold, which he acquired in 1676. As taverns, the fame of the two lesser houses was eclipsed by St. Dunstan's, or the Devil Tavern, as it was commonly called. It existed early in the reign of Queen Elizabeth, and, under the first two Stuart Kings, was in great fashion, being much frequented by the Quality, as well as wits and men of letters. Here it was that



"Rare Ben Jonson" founded and reigned over his Apollo Club, drawing up for its members *Leges Convivales* in admirable Latin, and gathering about him the other poets and authors of his day. Over the door of the chamber in which these meetings were held were inscribed the lines of greeting which this fine scholar, wit, and poet addressed to all who joined his revels, commencing :

"Welcome all who lead or follow  
To the oracle of Apollo."<sup>1</sup>

This room has already been noticed as the place where the rebellious juniors of the Middle Temple met in the rebuilding crisis after the fire of 1678 to discuss their plan of campaign against the Benchers of the Inn.<sup>2</sup> The Devil Tavern is mentioned in the Diary of Samuel Pepys, and it was at this house that Sir Christopher Wren was entertained by the Temple Societies during his superintendence of the work done upon the Temple church.<sup>3</sup> The most celebrated tenant of the house was Symon Wadlowe, who was host here in the reign of King James I. Symon died in 1627, and, after his decease, the business was carried on first by his widow, and later by his son John Wadlowe, who, according to Pepys, made a brave show in the Coronation procession of Charles II: "Wadlowe the Vintner at the Devil in Fleet Street did lead a fine Company of Soldiers all young comely men in white doublets."<sup>4</sup> The first mention of this tavern in the Middle Temple Records occurs on July 8th, 1614, when the passage of water from it into Middle Temple Lane was ordered to be stopped up.<sup>5</sup> In 1617 Symon Wadlowe was required to pay 20s. yearly as rent for divers new lights which he had built without leave upon the Temple wall.<sup>6</sup> This, no doubt, meant new windows, and the rent a charge imposed to prevent his acquiring as against the Society an easement of light which might interfere with future building in the Inn. During John Wadlowe's tenancy, and later, there are numerous

<sup>1</sup> Works (Edit. 1816), Vol. IX, 83, 87.

<sup>2</sup> *Ante*, p. 528.

<sup>3</sup> "Paid the moiety of a dinner at the Divill Taverne for the entertainment of Sir Xopher Wrenne the whole bill coming to £1 10/-: Paid 15/-": Account Book (I.T.), 1682-84. Again, "Paid the halfe of two dinners for the entertainment of Sir Xopher Wrenne att his comeing to survey and giving orders to workemen about the Temple church £1.14. 6, the Middle Temple paying the other halfe": *ibid*.

<sup>4</sup> Diary, April 22nd, 1661.

<sup>5</sup> C. 74.

<sup>6</sup> "The yearely rent of twenty shillings currant money at the fower most usuall feasts or tearmes of the yeare": C. 124.

other references to this house in the Middle Temple Minute Books in connection with sanitation and attempts made by the vintner to open a door or passage from the Tavern into Middle Temple Lane as a back exit from his premises. The Benchers, as Trustees for the Inn, showed a commendable jealousy of any such encroachments on the Society's proprietary rights, and, where leave was given to connect the tavern drains with the main sewer, which ran down Middle Temple Lane to the Thames, they insisted on a nominal payment of rent and an acknowledgment of their right to cut off the connection if and when they thought fit.<sup>1</sup> The passage or door into the Lane was a different matter, and in November, 1650, as the Record says, "absolutely denied."<sup>2</sup> Four years later the vintner, under pretence of consent by the Masters of the Bench, opened a way for himself through the intervening wall, with the result that the alleged consent was promptly repudiated and the wall ordered to be "handsomely made up with brick" (May 5th, 1654).<sup>3</sup> On November 21st, 1656, however, the Benchers relented, and, yielding to Wadlowe's earnest petition in that behalf, allowed a passage from his house to be opened into the Lane, but only on terms which provided as follows: He was to put up a handsome strong door with a good strong lock, upon the side next the Lane, and no keyhole on the tavern side; the key was to be in the keeping of the Middle Temple Porter, and the door open between the following hours only: March 25th to September 29th 6 a.m. to 9 p.m., and for the remainder of the year from 7 a.m. to 8 p.m. Further, the concession made in allowing the door was only to continue in force so long as the vintner kept good order and behaved himself well towards the Society. Finally, in recognition of the special grace thus extended to him, Wadlowe was required to provide for the Benchers "as much wine at the last parliament supper in every Michaelmas Terme as usually is spent or their Mastershippes in their discretions by their order shall thinke convenient."<sup>4</sup>

It is not surprising, however, that there was soon trouble with this back door, and that on complaint of misdemeanours an order was made on January 29th, 1657, locking it up till the matter was further considered.<sup>5</sup> The outcome of this further consideration is not recorded. Probably the door remained

<sup>1</sup> B. 370, 424, 436 (November 22nd, 1650; June 2nd and February 2nd, 1654).

<sup>2</sup> B. 370.

<sup>4</sup> B. 467.

<sup>3</sup> B. 421, 424 (see also June 2nd).

<sup>5</sup> B. 484.

closed, for the next and final reference to it twenty years later, relates to an attempt to reopen it, and records that "the walling upp the doore lately made from the Divell Taverne into Middle Temple Lane is referred to Mr. Treasurer to doe what hee judges best."<sup>1</sup> The Society was also involved in some dispute as to the ownership of ground between the tavern and the Lane, in regard to which they filed a bill in Chancery, but its nature and outcome are not indicated in the Benchers' Minutes.<sup>2</sup> The draining facilities, if reasonably used, the Inn could hardly refuse, but the Benchers' objection to having a back door opened into the Society's premises from a tavern, not likely even under the best of management to be always orderly, can easily be appreciated.<sup>3</sup>

Further west, and outside Temple Bar, were two other taverns, the Rose and the Palsgrave's Head. Both stood back from the street, and were approached by narrow passages. The first backed on to Brick Court, the second on to Essex Court. Not much is known about the Rose. Pepys got some refreshment here on his return from attending the Christmas Eve Service at the Queen's Chapel at St. James's in 1667 :

"I took my coach which waited," he says, "and through Covent Garden &c. Drank some burnt wine at the Rose Tavern door while the Constables came and two or three bellmen went by."<sup>4</sup>

Half a century later Strype notices this house favourably in his edition of Stow's Survey, as follows : "The Rose Tavern a well customed house with good conveniences of rooms and a good garden."<sup>5</sup> The garden must have been small and shut in by surrounding buildings, but it contained an arbour with a vine growing over it which is said to have borne grapes at times.<sup>6</sup>

The Palsgrave's Head was a larger house, and took its name from the husband of the Lady Elizabeth, daughter of James I and Winter Queen of Bohemia. Cross Keys Alley, which gave

<sup>1</sup> E. 360 (January 27th, 1687).

<sup>2</sup> B. 485 ; E. 36 (February 5th, 1657, and November 23rd, 1660).

<sup>3</sup> See also E. 28, 36, 42, 62.

<sup>4</sup> Diary, December 24th, 1667.

<sup>5</sup> Edit. 1720, II, 117.

<sup>6</sup> City Gardener by Thos. Fairchild (1722). The Rose still existed in 1776, see Horace Walpole's Letter to Rev. Wm. Cole : Lord Orford's Letters, January 26th, 1776.

access to the Rose Tavern, also communicated with the Court in which this house stood, and from which there was a passage through to the Temple. This passage proved a bone of contention between the Benchers and the tenant of the tavern. It seems to have been first authorized on November 26th, 1641, in response to a petition presented by members of the Society who had chambers in Essex Court. The Benchers stipulated that it should be made (subject to their orders) at the expense of the owners of the tavern and provided with a door controlled by the Middle Temple Porter.<sup>1</sup> On November 25th, 1642, after Civil War had begun, this door was ordered to "be barred up and so continue close barred and made up until further order."<sup>2</sup> The next reference to this tavern in the Society's Records occurs on May 24th, 1650. The then tenant was John Richardson, who appears to have reopened a passage into Essex Court on his own initiative. He was required to attend the Treasurer and enter into articles concerning it or have it stopped up.<sup>3</sup> The conditions to which he agreed on June 1st (as evidenced by his signature in the Minute Book) were, with one exception, the same as those which six years later were imposed upon Wadlowe in the case of the Devil Tavern, and which have been already stated. The exception concerned the supply of wines for the Michaelmas Supper, instead of which Richardson was required to pay a gratuity of 5s. per quarter to the Inn Porter for his pains in locking the door during the prescribed hours of closing.<sup>4</sup> This tavern came to an end in 1687, when it was pulled down. The date is fixed by the permission the Benchers gave to convey the earth and soil from the "new buildings late the Palsgrave Taverne" through the Temple Courts and Lane to the Temple Bridge on the river.<sup>5</sup> The passage through to the Palsgrave's Head Court remained, however, but subject to control by the Society's Porter as formerly. On January 29th, 1691, a candle was ordered to be "hung up there on the usuall nights for enlightening the said passage out of Essex Court."<sup>6</sup> Before this date the making of New Court had extended the Middle Temple boundary on the west and given a new exit towards Essex Street. On May 13th, 1698, an order was made that the wicket of the great gates of this exit should be opened in summer at four o'clock in the morning and the great gates at six.<sup>7</sup> Notwithstanding the facilities this new gate afforded, the

<sup>1</sup> B. 256.<sup>2</sup> B. 273.<sup>3</sup> B. 363.<sup>4</sup> B. 365.<sup>5</sup> E. 360 (January 27th, 1687).<sup>6</sup> E. 387.<sup>7</sup> E. 450.



Palsgrave Court exit still continued, for on the 25th of the following November the Middle Temple Treasurer was empowered to shut up the door and keep it shut if the inhabitants of that Court failed to hang up lights at the passage coming down into Essex Court during winter time.<sup>1</sup> It is now represented, though not on quite the same site, by the passage through the modern building known as the Outer Temple. On which also a door under the Benchers' control is not lacking.

The Devil, the Marygold, the Sugar Loaf, the Rose, and the Palsgrave's Head do not, however, exhaust the list of victualling houses in the immediate vicinity of the Middle Temple. Just beyond the Palsgrave's Head Court, and approached like it by a narrow passage from the Strand, was Devereux Court, so called after the family name of the Earls of Essex, and having, says Strype, "a good resort consisting of Publick Houses and noted coffee houses."<sup>2</sup> Here in particular were situate the Grecian and Tom's. The former seems to have been opened soon after the Restoration by a Greek named Constantine, who, in 1665, was advertising such specialities as coffee, chocolate, sherbet, and tea.<sup>3</sup> The patrons of this house, besides lawyers, included Sir Isaac Newton, Sir Hans Sloane, and other celebrities of the Royal Society (founded 1660), which then held its meetings in Crane Court, off Fleet Street. The Grecian is also said to have been in high favour with literary men. The Tatler distinguishes it as the special resort of learning.<sup>4</sup> But its great prosperity and chief fame belong to the eighteenth century. Devereux Court rebuilt, but without its coffee houses, still exists; and the bust of Lord Essex, which overlooks the Court from a bracket upon the building on the west side, is reputed to have been an adornment of the original Grecian Coffee House. The name "Grecian" also survives in the title of chambers in the Court.

Nor were the facilities of this kind enjoyed by the members of the Inner Temple Society less abundant. The entrance from Fleet Street to that Inn was by the gateway under the Prince's Arms. This house, which was not the property of the Inn, was at one time supposed to owe its name to the circumstance that it had been the London office of the Duchy of Cornwall. Here, in the room immediately over the entrance gate of the

<sup>1</sup> E. 456.

<sup>2</sup> Stow's Survey, Edit. 1720 (Strype), II, 117.

<sup>3</sup> Cunningham's London (1850), 210.

<sup>4</sup> Number One, April 12th, 1709.

Inner Temple, it was believed had been transacted the business of the Council of the Prince of Wales as Duke of Cornwall, and, as already mentioned, the ornate ceiling of this chamber, with the Feathers of the Prince and the letters "P. H." which may still be seen, probably dates from the time when Prince Henry, the eldest son of James I, held the Duchy.<sup>1</sup>

Next to the Prince's Arms on the west was the Rainbow Tavern, which adjoined Hare Court on the south and Inner Temple Lane on the east. The best known tenant of this house was James Farr, who, during the Commonwealth, added to his original business of a barber the trade of a vintner. He is said to have been the earliest caterer for public entertainment who provided his customers with coffee. His efforts in this direction at first brought him into bad odour with his fellow parishioners of St. Dunstan's in the west, as appears by the following Ward Mote Inquest Presentment of December 21st, 1657 :

"Item we present James Farr barber for makeing and selling of a drinke called coffee whereby in makeing the same he annoyeth his neigh<sup>rs</sup> by evil smells and for keeping of Fire for the most part night and day whereby his chimney and chamber hath been sett on fire to the great danger and affrightment of his neighb<sup>rs</sup>." <sup>2</sup>

The Rainbow Tavern had windows overlooking Hare Court and Inner Temple Lane, and in respect of the light thus enjoyed rent was paid by the tenant to the Inner Temple Society. In 1675, Farr found it necessary to rebuild his premises at the back, and petitioned the Benchers for leave to carry up part of them two stories high above his ground chambers where these jettied into Hare Court. Leave was given him to do so 7 feet 10 inches in length and 3 feet 5 inches in breadth for twenty-one years on payment of a fine of 40s. and an annual rent of 6s. 8d. payable on the Feast of St. John the Baptist.<sup>3</sup> Farr died in 1680,<sup>4</sup> and thereafter the business was carried on, first by his widow and later by Richard Hargrave, both of whom continued the rent payment to the Society.<sup>5</sup> In 1684, Mrs. Farr enlarged two

<sup>1</sup> Noble's Memorials of Temple Bar (1869) ; Beresford Chancellor's Fleet Street (1912), 30 ; and see *ante*, p. 294.

<sup>2</sup> Noble, p. 112.

<sup>3</sup> A.P. IV, 12 (June 20th, 1675).

<sup>4</sup> Noble, 113.

<sup>5</sup> B.T.O. I, 36 ; Sir R. Sawyer's Acct. 1684/5.

of the Rainbow windows which overlooked the Inner Temple Lane, and was required to pay a rent of 12*d.* annually in respect of each window.<sup>1</sup> From a subsequent entry of June 17th, 1689, it appears that the Benchers then reimposed what had been a former condition of their allowance of these windows, viz. that they should be latticed and the ground rooms they lighted used only as cellars.<sup>2</sup> The accounts of the Inner Temple Society for the year 1689/90, when Richard Hargrave was tenant of this house, show payments of 6*s.* 8*d.* and 2*s.* for the lights in Hare Court and Inner Temple Lane, respectively. There are also similar items in the accounts of subsequent years.

On the other side of the Inner Temple Gate was the Fountain Tavern, to which Samuel Pepys paid a visit on October 14th, 1661. That day happened to be the Duke of York's birthday, and he adds "we drank the more to his health."<sup>3</sup> This house also had windows looking into Inner Temple Lane. In 1691 the vintner here, Edward Dixon by name, paid a rent of 2*s.* 6*d.* per annum for these windows.<sup>4</sup> Seven years later the tenant of the Fountain Tavern seems to have set up a claim to use these windows free from all restrictions, for the Benchers caused them to be blocked up with blinds on the Lane side in assertion of the rights of the Inn.<sup>5</sup> The remedy was effectual, for Dixon at once came to terms, and agreed, on July 11th, to continue the former rent payment of 2*s.* 6*d.* and discharge the cost the Benchers had incurred in blocking up his lights. Further, he undertook "to keep apart for the use of the Masters of the Bench of the Inner Temple, the best room in his house upon any public show or occasion when required."<sup>6</sup> After this the window rent seems to have been regularly paid,<sup>7</sup> and as numerous entries in the Accounts of the Inn prove, the condition about reserving the best room for the use of the Benchers was fully taken advantage of. Thus, when Queen Anne was proclaimed (March, 1702), when her Majesty went to the Lord Mayor's Feast, when there were public thanksgivings, when the French standards were carried to Westminster (1705), and when King

<sup>1</sup> A.P. IV, 139 (November 6th, 1684).

<sup>2</sup> B.T.O. II: allowed "with lattices only towards the Temple Lane and the ground roomes to be used and employed for Cellars only as formerly."

<sup>3</sup> Diary.

<sup>4</sup> See *Miscellanea*, I.T.R. III, 294.

<sup>5</sup> B.T.O. III (July 4th and 5th, 1698).

<sup>6</sup> B.T.O. III. From this it appears that the Benchers of the Inner House were not less attentive to their own interests where vintners were concerned than their brethren of the Middle Temple.

<sup>7</sup> See Accounts, 1698-99 to 1713-14.

George I entered London in 1714, the Benchers viewed the proceedings from this tavern, and did not forget to order something for the good of the house.<sup>1</sup>

There is mention also in the Records of the Society of a house called the Starr Tavern at the Inner Temple Gate. Pursuant to a Bench Table Order of May 6th, 1689, the keeper of this house was summoned to attend before the Bench "about the annoyance of his Bar Bell," etc., and duly did so. For, on May 9th, there is a further entry, "Ye Master of ye Starr Taverne appearing and promising all future respects to ye Society is dismissed."<sup>2</sup>

Further east, in Fleet Street, but at no great distance from the Fountain Tavern, stood the Hercules Pillars, a house widely known and much patronized. Its back premises seem to have adjoined the site north of the churchyard held by the Middle Temple and now covered by the modern Goldsmith Buildings. The erection of a new kitchen by the keeper of this house gave cause of complaint to Mr. Beckett, a member of that Society, and, on February 8th, 1660, a small committee was appointed to ascertain what prejudice was done by this kitchen to the north lights of Mr. Beckett's chamber.<sup>3</sup> The Hercules Pillars was a house much frequented by lawyers. Pepys also was partial to it, and his Diary records his presence there on various occasions. He seems to have used it both for dinner and supper.<sup>4</sup> The Devil Tavern, the Palsgrave's Head, the Rainbow, and the Hercules Pillars all issued special tokens of their own.<sup>5</sup>

Still further east, in Fleet Street, and in close proximity to Serjeant's Inn, was the Mitre Tavern. The ubiquitous Pepys also patronized this house,<sup>6</sup> which was an ancient one. It is not so much in evidence in the Temple Records as the taverns already noticed, but the Treasurers of the two Inns met here in 1707 to adjust bills connected with outlay on the Temple church.<sup>7</sup> This house, afterwards famous as a haunt of Dr. Samuel Johnson, no longer exists, the modern house of the same name being on a different site and further east. Near the Mitre and opposite the end of Fetter Lane was another tavern

<sup>1</sup> See I.T.R. III, 370, 386, 393, 394, 399, 406, 441.

<sup>2</sup> B.T.O. II.

<sup>3</sup> E. 40.

<sup>4</sup> See Diary, October 11th, 1660; August 30th, 1661; May 2nd, August 31st, and September 4th, 1668.

<sup>5</sup> Some interesting particulars in regard to these tokens will be found in the Intro. to I.T.R. III, pp. lxxxi, lxxxii.

<sup>6</sup> Diary, January 30th, 1659/60; April 17th, 1661; January 9th, 1662/3.

<sup>7</sup> See I.T.R. III, 412.



of old standing called the Dolphin. The host of this house got into trouble in 1630 by annoying the Judges at Sergeant's Inn with the "stench and smell of the tobacco" consumed by his patrons.<sup>1</sup>

Many other houses of a like nature in the vicinity of the Temple might be mentioned, though less identified with its history, such as the Cock Alehouse (originally the Cock and Bottle) on the north side of Fleet Street and just inside Temple Bar, the King's Head at the foot of Chancery Lane—so called from its sign showing the head of King Henry VIII, the Bell Tavern in Bell Yard, Dicks (opened in 1681) between the Middle Temple Gate and the Rainbow, the Bolt in Tun, and the Cheshire Cheese further down Fleet Street, and the Horn, a celebrated house which also seems to have been a place of meeting for the Benchers of the two Inns when conference was desired between them.<sup>2</sup> Lastly, some mention should be made of Ram Alley, "A place," says Strype, "of no great reputation," where inferior victualling houses abounded, the tenants and customers of which were far from being desirable neighbours for the Inner Temple.<sup>3</sup> A passage which the Benchers, on representations from the residents in Fuller's Rents, were induced to open through this Alley to Fleet Street in the reign of Elizabeth,<sup>4</sup> caused the Inn no little annoyance, the house being greatly grieved and exceedingly disquieted by the many beggars, vagabonds, and idle persons who by this means invaded the garden, and there stayed and kept all day as a place of refuge and sanctuary; not to mention sick persons visited with infectious diseases, who, coming thence to take the air, are said to have put the whole Society in danger of infection.<sup>5</sup>

Reference has already been made to the Carmelite Community known as the White Friars, whose London abode bounded the New Temple on the east. The primary mission of the Friars, as already stated, had been to the poor and the outcast in the slums of the great mediæval towns. But their devotion soon attracted the notice of the noble and the rich, with the result that benefactions flowed in upon them, and their London establishment, with its chapter house, dormitories, frater, library, cloisters, church, and gardens eventually occupied the

<sup>1</sup> Noble, 111.

<sup>2</sup> See Gen. Accts. (I.T.) 1706-7 and 1707-8; also Noble, 111.

<sup>3</sup> Survey of London, Edit. 1720. This Alley lay east of the Mitre and parallel with the west side of Serjeant's Inn.

<sup>4</sup> A.P. I, 158 (January 27th, 1565).

<sup>5</sup> A.P. II (January 27th, 1604).

whole space from where Whitefriars Street now runs on the east to the Temple on the west, and from Fleet Street to the Thames. The importance of the Friars increased after the Templars' fall, Councils of Church and State meeting from time to time in their house which had formerly used the New Temple as their place of assembly. So great was the esteem in which the Order was held that many noble and distinguished persons elected to find their last resting-place in the Church of the White Friars, which, as re-edified by the benefactions of Sir Robert Knolles<sup>1</sup> and enlarged by Robert Marshall, the Carmelite Bishop of Hereford (who rebuilt the choir and added a lofty steeple), must have been one of the most imposing buildings in the London of the fifteenth century.<sup>2</sup>

The suppression of the Monasteries by King Henry VIII, and the confiscation of their estates, broke up this great establishment. The Friary was surrendered in 1538, and the land with its buildings thereafter passed into the possession of lay owners. The age which tolerated the conduct of Somerset in using the splendid church of the Hospitallers at Clerkenwell and part of St. Paul's itself as a quarry to provide material for the erection of his mansion in the Strand, was not likely to withhold its sacrilegious hand from the Church of the Friars, or show any respect for the tombs of the dead who were there interred. Under the date 1545 the Chronicle of the Grey Friars states, "This yere was the Churche of the Whytffreares pullyd downe."<sup>3</sup> The way in which its stones were utilized is shown by Stow's statement half a century later, "In place of this Friars church be now many fayre houses builded, lodgings for noblemen and others." The rest of the Friars' buildings probably shared the fate of their church. Sir Willian Butts, physician to Henry VIII, who received the chapter house from that Monarch, appears by his will to have been the owner at the time of his decease of certain houses within the former precincts of the Carmelites.<sup>4</sup>

<sup>1</sup> A redoubtable soldier of fortune who amassed great wealth in the predatory wars which devastated France in the reign of Edward III.

<sup>2</sup> Stow sets out a long list of persons buried in this church: *Survey* (Edit. 1908), II, 46, 47; see also in regard to these Friars Victoria Hist. of London (1909), 507-10; and Noble's *Memorials of Temple Bar*, 96.

<sup>3</sup> *Monumenta Franciscana* (Rolls Series), II, 209; Camden *Soc'y*. LIII, 49. A more glaring instance of the brutish impiety of the times was the treatment of the church of the Grey Friars in which many royal and illustrious persons lay buried. Its tombs were ruthlessly broken up, and the almost priceless marbles which adorned them sold for a paltry £50.

<sup>4</sup> D.N.B. VIII, 104; Noble, 96

The house of the Friars as the home of a religious Order had been invested with the privileges of a sanctuary, which their expulsion did not wholly determine. The district still retained their name, and the inhabitants who succeeded them, claiming to be free from the City's jurisdiction, long offered an effective resistance to all attempts by civic authority to establish control over them. This more especially applies to the northern portion of the Friars' property adjoining Fleet Street, which must have rapidly deteriorated in character, for there is evidence that early in the reign of James I houses there had been split up into numerous small tenements, creating veritable rookeries, and that the neighbourhood swarmed with victualling houses.<sup>1</sup> In 1623 the privilege of sanctuary as a defence to criminal process was abolished by the Statute 21 Jac. I, c. 23, § 6, which enacted that it should not thereafter be admitted or allowed in any case. This, however, did not affect immunity from arrest for debt, and into a place where such immunity was enjoyed there naturally gravitated the outcasts of Society ready to aid and abet each other in resenting interference from without, and creating for the desperate a refuge which municipal officers had little relish for entering. But all of the Whitefriars' former property was not thus affected, and it is a remarkable circumstance that side by side with these outlaws dwelt distinguished and important personages in great houses, such as the Greys, Earls of Kent, in whose mansion the scholarly Selden so long lived splendidly and died at last in leisured magnificence.<sup>2</sup>

The Great Fire of 1666 swept over this neighbourhood, and must have left it in ruins; but the wasps soon returned to their burnt nests and former manner of life, as determined as ever to resist any attempt to abridge their ancient immunities. Such a colony of desperadoes must in any case have appeared sufficiently incongruous in any civilized community, but when it is remembered that the Judges of Serjeant's Inn and the Benchers of the Inner Temple were the immediate neighbours of these outcasts, it is matter for no little astonishment that this Alsatia was so long suffered to exist under, as it were, the very

<sup>1</sup> The houses of Sir John Parker and Francis Pike seem to have been divided into twenty and thirty-nine several tenements respectively, causing complaint that "theis two landlords doe breade much poore people in the same precincts and much annoyance": Noble, 96, 97.

<sup>2</sup> No doubt it was to meet the convenience of such persons and their households that the Benchers of the Inner Temple, on May 16th, 1650, upon the petition of fifty-seven of the chiefest inhabitants of the precincts of the Whitefriars that the passage of the wicket gate may be open at fit times, ordered that the said "wickett dore" be opened from 6 a.m. to 8 p.m.: see A.P. III, 69.

ægis of the Law. The Templars might have been expected to exert themselves to bring this very questionable community under effective control, but of any such endeavour the Records of the Inner Temple (the house more immediately concerned) afford no evidence whatever. Perhaps the circumstance that the Temple Societies in their claim of immunity from the City's jurisdiction had a common interest with these ill-assorted neighbours, induced a feeling of tolerance which otherwise could hardly have existed. Whatever the reason, beyond fencing off their own premises by walls, and from time to time placing under more strict control or closing altogether doors or gates which gave access to the Temple precincts from Whitefriars,<sup>1</sup> the Benchers seem to have taken no steps hostile to its unruly inhabitants. Even the serious incident which must now be noticed only finds an echo in the Records of the Inn by reason of the cost incurred in compensating sufferers and supplying refreshments to those who assisted in vindicating the rights of the Temple.<sup>2</sup>

On June 23rd, 1691, the Benchers of the Inner Temple placed on record an order "that the little gate leading into Whitefryers be forthwith bricked upp"; and, on July 3rd, a further order "that the Whitefryers little gate be againe bricked up and that all the house servants be present att the making up the same."<sup>3</sup> That is all. For further light on the meaning of these orders it is necessary to turn to the contemporary narrative of Colonel Narcissus Luttrell.<sup>4</sup> From which it appears that the Benchers' order of June 23rd had been so hotly resented by the denizens of this Alsatia, that no sooner was the bricking up of the little gate accomplished than they pulled it down, and that the second order met with an even more prompt resistance, the outlaws in this case throwing the bricks down as fast as they were built up. In this emergency the Benchers took the unwonted course of appealing to the City Sheriffs to keep the peace for the protection of the workmen. One of the Sheriffs at this time was Sir Francis Child, goldsmith and banker in Fleet Street, at the sign of the Marygold by Temple Bar. The Alsatians, however, who had so long regarded all City officers as their natural enemies, were in no way daunted by this turn of affairs. When Sir Francis appeared they fell upon him, threw him and divers of

<sup>1</sup> A.P. IV, 81, 82; see also B.T.O. I, 19, 24, 32, 75; II, June 10th, 1689.

<sup>2</sup> See Accounts, 1690-91; B.T.O. III (February 10th, 1691).

<sup>3</sup> B.T.O. II (July 3rd, 1691).

<sup>4</sup> Brief Relation of State Affairs, II, 259, 260;



his posse to the ground, and carried off in triumph part of his gold chain of office. Worse still, they shot guns amongst these vindicators of the Law, and wounded several, two of whom shortly after died. Further, a Dutch soldier, who was passing at the time, had the ill fortune to be shot through the neck, and a woman "into the mouth." The battle lasted several hours, and the discomfiture of the Alsatians was only achieved by the help of a company of the King's Guards. Some of the rioters were taken and lodged in prison, but the ringleader, a certain Captain Winter, escaped for the time being. He was eventually arrested and brought to trial in May, 1693, when he was convicted of murder and sentenced to be hanged. This sentence was duly carried out on the 18th of the month in Fleet Street, opposite Whitefriars, his former sanctuary. "He died," says Luttrell, "very penitently."<sup>1</sup>

The closing of the little gate, however, proved after all only temporary, for the inhabitants of Whitefriars, all of whom were not disreputable, earnestly petitioned the Benchers in the following Term that it might again be opened. In this solicitation they were supported by no less a person than Daniel Finch, second Earl of Nottingham, whose hereditary connection with the Inn, wide influence and high character, must have given much weight to his representations. Some debate and negotiations followed, but the Benchers eventually yielded, and a year before the chief malefactor expiated his crime on the gallows, the following Bench Table Order was made at the Inner Temple :

"Ordered that there be but one passage out of this Society into Whiteffryers Ordered att the desire and request of the right hon<sup>ble</sup> Daniel Earl of Nottingham signified by his Lordshipp's letter to the Treasurer bearing date the 26th day of January last and likewise upon the humble petition and earnest supplicacon of the inhabitants of the said Whiteffryers that the upper Passage now brickt upp be opened and a gate placed there with a Wickett to be opened and shutt att such times and seasons as this table shall from time to time direct and appoint and not otherwise."<sup>2</sup>

Six months later this order was supplemented by a further direction as follows :

<sup>1</sup> Brief Relation, III, 86, 99, 100.

<sup>2</sup> B.T.O. III (May 2nd, 1692).

"That the little gate leading into Whitefryers be opened att 7 of the clock in the mornings from hence forth till further order and that the said gate be shutt upp every day from 12 of the clock untill 2 afternoone." <sup>1</sup>

The concession thus made was not obtained without conditions, however, the terms of which were set forth in the following proviso :

"Provided the said inhabitants pay the charge the Society have been att in asserting their Right to the said Passage and Gate and also such further charge as the Society shall be att in opening the said Passage and setting up a new Gate as aforesaid ; and it is further ordered that the Wickett in the Great Gate of the lower Passage into Whitefryers be shutt upp during the pleasure of this Table." <sup>2</sup>

Moreover, before the construction of the new gate was begun the Benchers, on May 7th, 1692, directed

"that the charges of the new Gate be computed and the money deposited in the hands of the Under Treasurer of this Society and that the said gate be finished by the said Under Treasurer's direcon." <sup>3</sup>

Nevertheless, the doings of 1691 were not without permanent consequences, for they led to legislation which had long been overdue. In 1697 a clause was enacted in the Statute 8 & 9 William III, c. 27, to prevent for the future "the many notorious and scandalous practices used in many pretended privileged places" to obstruct the execution of legal process whereby (as was recited) great numbers of people were defrauded and cheated of their honest and due debts. Of such places expressly named in the Act the first was "White Friars"; while Ram Alley, Mitre Court, and Fuller's Rents were also specified. The remedy enacted was drastic. Any creditor having taken out legal process against a debtor resident in any such place might require the Sheriffs (under pain of forfeiting £100) to enter it and arrest the debtor or seize his goods in execution, taking with him for this purpose, the posse comitatus, or any other power he might

<sup>1</sup> B.T.O. III (November 8th, 1692).

<sup>2</sup> *Ibid.* (May 2nd, 1692).

<sup>3</sup> *Ibid.* III.

deem requisite. Any person opposing or resisting the Sheriff discharging this duty was liable to forfeit £50, to be lodged in gaol, and, on conviction of the offence, sentenced to the pillory and such term of imprisonment as the Court might think fit to impose. Further, any attempt to rescue a debtor so arrested by the Sheriff in such place or to aid or abet such rescue rendered the offender liable to the creditor on whose behalf the Sheriff acted in a sum of £500, and if that sum were not paid when sued for, to transportation for seven years; while any person inhabiting such place who concealed or harboured any person guilty of such rescue, was also made liable to seven years' transportation unless he paid to the creditor his full debt and costs of action within one month.

Thus ended the immunity Whitefriars had so long enjoyed as a sanctuary for debtors, and the scandal to which Thomas Shadwell had drawn attention in his play "The Squire of Alsatia" by the speech he put into the mouth of Sir Edward Belfond:

"Was ever such impudence suffered in a government? Ireland conquered, Wales subdued, Scotland united: but there are some few spots of ground in London just in the face of the government unconquered yet, that hold in rebellion still. Methinks 'tis strange that places so near the King's Palace should be no part of his dominions. 'Tis a shame to the Societies of the Law to countenance such practices." <sup>1</sup>

Shadwell, to whose memory (as *clarissimo parenti*) the filial piety of his son, John Shadwell, M.D., erected a monument in Westminster Abbey, was the son of a Middle Templar, and himself also a member of the Inn. His plays, remarkable for their vigorous presentment of the manners of his time, had an astonishing success upon the stage, but are totally devoid of any poetic merit. He succeeded Dryden as Poet Laureate at the Revolution of 1688, and was also Historiographer Royal. It is interesting to note that "The Squire of Alsatia," which is credited with having inspired the account of Whitefriars given by Scott in the *Fortunes of Nigel*, and by Macaulay in his *History of England*, was acted in the Inner Temple Hall at the annual festival there held on All Saints' Day (November 1st), 1689, less than two years before the fatal rioting above described.<sup>2</sup>

<sup>1</sup> Act V, Scene 1.

<sup>2</sup> Gen. Accts. Bk. 1689-90 (Ralph Davenant).

## CHAPTER XVI

### THE GREAT SEAL AFTER THE REVOLUTION

OF the four Keepers of the Great Seal who successively held that office in the period covered by the reigns of William and Mary, of William III, and of Queen Anne, Lord Somers and Lord Cowper were of the Middle Temple, Sir Nathan Wright and Lord Harcourt of the Inner House. At first, after the Revolution the Seal was placed in commission (March 4th, 1689), and it was not until after an interval of four years that it was once more entrusted in the person of Sir John Somers (then Attorney-General) to a single Keeper. No man had played a more conspicuous part in moulding the Revolution Settlement, and the honour thus conferred upon him was a fitting reward of his political labours.

John Somers, "the constant friend of liberty and the oracle of the Revolution,"<sup>1</sup> was the son of a Worcester Attorney, a gentleman of some position and influence in his own neighbourhood.<sup>2</sup> From his earliest years the future Lord Chancellor imbibed what would now be called liberal opinions, for his father, though living in a royalist community, espoused the Parliament's cause in the Civil War, and eventually commanded a troop of horse in Cromwell's army. Born on March 4th, 1650, six months before the Parliament won their final victory at the battle of Worcester, John Somers was admitted to the Honourable Society of the Middle Temple from Trinity College, Oxford, on May 24th, 1669, and to chambers in Elm Court on the 26th of the following February.<sup>3</sup> After the usual interval of seven years, he was

<sup>1</sup> Coxe, *Life of Walpole* (1798), I, 76.

<sup>2</sup> For accounts of Lord Somers' career, see Foss, VII, 348-363; D.N.B. LIII, 221-229; Roscoe's *Eminent British Lawyers*, 140-170.

<sup>3</sup> These entries are as follows: "Maij 24<sup>to</sup> 1669<sup>o</sup> Mr Johēs Somer filius et heres apparens Johnis Somer de parochia Scti Michis in Bedwerdine in Com. Worcest. gen. Admissus est in Societatem Medii Templi specialiter; Et obligatur unacum Et dat profine £3. 10/-." "Februarii 26<sup>to</sup> 1669<sup>o</sup>: Ex assignacone et sursum reddicone Executor: ultime voluntate et testamenti



called to the degree of the Utter Bar on May 5th, 1676.<sup>1</sup> At the commencement of his career at the Bar he is said to have been greatly assisted by Sir Francis Winnington of the Middle Temple, who had property in the vicinity of Worcester, and held the office of Solicitor-General from December, 1674, till January, 1679; while a close and enduring friendship which Somers formed in youth with Charles Talbot, 12th Earl and 1st Duke of Shrewsbury, brought him into touch with the leaders of the Low Church or Whig Party. Studious by nature, and in his early years characterized by a certain aloofness from his fellows, when he came into residence at the Temple he had already acquired those habits of assiduous application which distinguished him through life, and while sedulously prosecuting the study of the Law, his range of reading, as his subsequent career abundantly proved, extended far beyond it. In particular, he was early fascinated by the problems of government and constitutional history. The times were well calculated to inspire reflection on such subjects. The glamour of the Restoration of the Monarchy had faded, and to high hopes had succeeded disillusionment and discontent. England had fallen from the dominant place she had held in Europe under the Protector, and with the heir to the throne an avowed Papist, the popular mind was oppressed by a fear that the struggle between King and Parliament might yet have to be fought out once more. Somers' first success was won in the arena of political controversy. While the exclusion of the Duke of York from the throne was being hotly debated he published in 1680 a tract bearing on the subject, entitled "A brief history of the succession of the Crown of England collected out of Records and the most authentick Historians." This was followed by others dealing with current topics. First, "A modest and just vindication of the Proceedings of the last two Parliaments," being a reply to the Declaration the King had issued on April 8th, 1681, after dissolving the refractory Oxford Parliament at which Lord Shaftesbury had demanded the recognition of Monmouth as heir to the Crown. Secondly, "The Memorable Case of Denzil Onslow tried at the Surrey Assizes July 20th, 1681, touching his election at Haslemere," a defence of the rights of electors; and thirdly, "The

Thome Connesby gen. nup. defunct. M<sup>r</sup> Joh<sup>es</sup>. Somer admissus est in Totam Cameram cum pertinentiis et scituat. ex Australi parte de le Elme Cor<sup>t</sup> quarti gradus, Habend. totam illam Cameram predict. cum pertinentiis predict. M<sup>ro</sup> Somer pro termino vite ipsius Joh<sup>is</sup> Et dat pro fine £2": Book of Admittances (M.T.), 155, 173.

<sup>1</sup> E. 207.

Security of Englishmen's lives or the Trust Power and Duty of the Grand Juries of England," written in justification of the Grand Jury which had refused to find a true bill for treason against Lord Shaftesbury in November, 1681. These tracts seem to have at once given him a place of honour in the Councils of the Whig leaders.

There is little information about his professional employments at this time, and it was probably not until the summer of 1688 that he acquired any celebrity as an advocate in the Courts of Law. He was retained as junior counsel for the defence in the historic trial of the Seven Bishops,<sup>1</sup> and the speech he then made won him general applause by the weight and conciseness of his argument. So much so that the City of London testified their appreciation of this performance by electing him their Recorder in the following October, an honour, however, which he thought it prudent to decline. To the Convention Parliament, summoned by the Prince of Orange in January, 1688, he was returned as member for Worcester. Peculiarly equipped for the crisis which had arisen in the national affairs by his studies in Constitutional lore, he at once took a foremost part in the debates. Elected Chairman of the Committee which drew up the Declaration of Right, there can be little doubt that his was the predominant influence in moulding that charter of liberties. Political services and legal learning alike marked him out for office under the new Government, and on May 4th, 1689, he was appointed Solicitor-General, being a week later elected a Bencher of his Inn.<sup>2</sup> Knighted as Solicitor-General on October 31st, he was chosen Reader for the following Lent,<sup>3</sup> and on October 24th, 1690, elected Treasurer of the Middle Temple.<sup>4</sup> On May 3rd, 1692, he was advanced to the office of Attorney-General on the elevation of Sir George Treby (also of the Middle Temple) to the Chief Justiceship of the Common Pleas.<sup>5</sup> Since the Revolution the Great Seal had been held in commission, making Chancery proceedings more dilatory and expensive, and causing many appeals, which, as the decisions of the Commissioners, according to Bishop Burnet, proved

<sup>1</sup> Henry Pollexfen, who led for the defence, is said to have refused a retainer in the case unless Somers was briefed as his junior: see Foss, VII, 335.

<sup>2</sup> "25<sup>to</sup> die Octobris 1689": Johes Somers miles Sollicitator Generalis Dñi Regis electus est Lector pro tempore Quadragesimali proxime futuro et Magister Antonius Weldon pro tempore Autumnali sequente": E. 371.

<sup>3</sup> London Gazette, No. 2450; E. 368; Shaw, II, 265.

<sup>4</sup> E. 378.

<sup>5</sup> London Gazette, No. 2763.

generally to be wrong, resulted in a crop of reversed decrees. To allay the discontent thus occasioned, it became necessary to entrust the Chancery business to a single hand, and on March 23rd, 1692, Sir John Somers, "who," says the same contemporary authority, "had now got great reputation both in his post as Attorney-General and in the House of Commons," was appointed Lord Keeper.<sup>1</sup> Four years later (April 22nd, 1697) he was given the higher title of Lord Chancellor, and in the following December, raised to the Peerage as Baron Somers of Evesham in the County of Worcester,<sup>2</sup> an honour only so long delayed, it is said, on account of his unwillingness to accept it earlier. He had thus acted as Speaker of the House of Lords for nearly five years before he had voice or vote in their Lordships' proceedings. He continued to hold the Seal until April 27th, 1700. During his period of office King William was frequently absent on the Continent, making it necessary to administer the affairs of the country through a Council of Regency consisting of Lords Justices. To this Council Lord Somers was repeatedly appointed, and, by virtue of his judicial rank, acted as principal member.<sup>3</sup>

There is general testimony to his integrity and unwearying industry as a Judge, and the profound impression made on his contemporaries by his ability and learning; while his remarkable capacity for affairs of State made the King, it was said, consider him beyond all his other Ministers.<sup>4</sup> This trust, however, while it gave Lord Somers commanding weight in the Councils of the Whig Party,<sup>5</sup> exposed him to the special hostility of their opponents, who saw in the influence he exercised the most formidable obstacle to their own accession to office.<sup>6</sup> Hence, when the electors returned a House of Commons in which the High Church or Tory Party had a majority, it was inevitable that he should be made an object of attack. The Partition Treaty of 1698 gave the opportunity. This Treaty, made between England, France, and Holland to secure on the death of Charles II of Spain, then regarded as imminent, and who had no heir, a peaceful division of the dominions united under

<sup>1</sup> *Own Times*, IV, 193; *London Gazette*, No. 2856.

<sup>2</sup> *London Gazette*, No. 3282; *Tabulæ Curiales*, 70.

<sup>3</sup> Kennett, III, 734, 755, 769.

<sup>4</sup> Tindal (*Rapin's Hist.*), III, pp. 377, 378.

<sup>5</sup> Lord Sunderland described Somers as "the life, the soul and the spirit of his party": Letter to King William III, September 11th, 1701; *Miscellaneous State Papers*, II, 446.

<sup>6</sup> Burnet's *Own Times*, IV, 442.

the Spanish Crown, met with pronounced public hostility as dangerously augmenting the formidable power of the French King. The terms of the Treaty had been negotiated abroad by William himself and transmitted to his Ministers in England, who, while raising serious objections to some of them, which they correctly anticipated the country would not approve, passed the Treaty, in deference to the King's wishes, the apparent alternative being war. Lord Somers and his colleagues, who made a futile attempt to keep the provisions of the Treaty secret, incurred the odium of having advised it, and on April 10th, 1700, an address was moved in the Commons humbly requesting his Majesty to remove John, Lord Somers, from his presence and Councils for ever. The motion was lost by 167 votes to 106, "by reason," says the Parliamentary History, "of the acknowledged merit and great services of that Peer."<sup>1</sup> But William, dependent on the goodwill of Parliament for the supplies necessary to the success of his foreign policy, took alarm, and, in order to relieve the situation, asked Lord Somers to voluntarily resign the Seal. This course, however, while stating his willingness to deliver it in obedience to the King's demand, he declined to take, lest by so doing he should expose himself to an imputation of fear or guilt. Accordingly, a royal warrant was sent, and the Seal surrendered on April 27th.<sup>2</sup>

"Thus the Lord Somers was discharged from this great office," writes Bishop Burnet, "which he had held seven years, with a high reputation for capacity, integrity and diligence; he was in all respects the greatest man I had ever known in that post; his being thus removed was much censured by all, but those who had procured it."<sup>3</sup>

The displaced Chancellor, though thus sacrificed to the exigencies of the royal policy, took his dismissal in perfect temper, and showed no resentment at the loss of office.

"The removing the Lord Somers," says Kennett, "from his high station though it displeased many people seemed not to affect his Lordship who retired with content and temper, and upon all occasions in Parliament served the King and the

<sup>1</sup> Com. Journ. XIII, 321; Parl. Hist. V, 1221.

<sup>2</sup> Lord Raymond's Rep. I, 566, 567.

<sup>3</sup> Own Times, IV, 444, 445.



interests of the public with the same zeal as if he had not lost a place.”<sup>1</sup>

Meanwhile the Parliament had been prorogued on April 11th, and, without meeting again, was dissolved on December 9th.<sup>2</sup> The new House of Commons, which assembled in the following February, was also dominated by a Tory majority, and on April 14th renewed the attack upon the fallen Chancellor. On this occasion Lord Somers, learning that the House was upon a debate concerning him, desired that he might be admitted and heard. His request was granted, and he made a statement regarding the Partition Treaty so full and clear, says the writer of the Parliamentary History, that had the question gone to a vote at once the decision must have been in his favour.<sup>3</sup> His enemies, however, led by Mr. Simon Harcourt of the Inner Temple, succeeded in prolonging the debate until after midnight, by which time the effect of his speech had worn off, and on a vote being taken, the House resolved that in the advice given to his Majesty in the matter of the Treaty, the Lord Somers had been guilty of a high crime and misdemeanour, and ordered Mr. Simon Harcourt to go to the Lords and impeach him.<sup>4</sup> Further, without awaiting the result of the impeachment, his enemies, on the following day, again moved an address (which was this time carried), requesting the King to remove the accused Peer from his presence and Councils for ever.<sup>5</sup> There was some delay in formulating specific charges, but at length, on May 19th, fourteen articles of impeachment were sent to the Lords, most of them introducing new matters, which only showed by their inclusion how little confidence the Commons had in their original case. Six of the charges related to the Partition Treaty; six alleged malversation in office by passing improper grants from

<sup>1</sup> Complete Hist. of England, III, 783 (Edit. 1719).

<sup>2</sup> Com. Journals, XIII, 321, 323.

<sup>3</sup> This was the opinion also of Sir Robert Walpole, a member of this Parliament. Walpole blamed William Cowper, whose indignation at the language of Harcourt in attacking Lord Somers drew him into the trap of a heated reply, and occasioned a debate in which the good defence of the accused was forgotten in the impetuous zeal of his friends. Thus two future Lord Chancellors, both also of the Temple, were responsible for the trial of Lord Somers: see Coxe's Walpole (Edit. 1798), I, 13, 14.

<sup>4</sup> Com. Journ. XIII, 489; Parl. Hist. V, 1246, 1266.

<sup>5</sup> Com. Journ. XIII, 492. The votes were 162 to 107. Presenting such an address with an impeachment was a new practice. It was in fact an attempt to punish before trial and to condemn the accused unheard. The Lords resented it, and presented a counter address asking the King not to censure before trial: see Tindal's Rabin (Edit. 1744), III, 460.

the Crown ; one charged complicity in the crimes of the notorious William Kidd, who, commissioned to act as a privateer, had turned pirate ; while another alleged delay and partiality in the trial of Equity suits, against a Judge whose devotion to duty had impaired his health and whose integrity had never been doubted.

The impeachment, however, proved abortive. To all the charges Lord Somers delivered detailed replies to which there was no replication, and a dispute having arisen between the two Houses through the Commons claiming a voice in determining the procedure to be followed at the trial, to which the Lords considered that as parties only and not judges they had no right, the accusers took advantage of the difference to refuse to appear at the hearing in Westminster Hall, and on June 17th, Lord Somers was acquitted and the impeachment dismissed.<sup>1</sup> Having thus run away from their own charges, the majority in the Lower House, to cover their retreat, resolved, three days later, that the Lords had refused justice by a pretended trial ; had endeavoured to overturn the right of impeachment lodged in the House of Commons by the ancient constitution of the Kingdom for the safety and protection of the Commons against the power of great men ; and had made an invasion upon the liberties of the subject by laying a foundation of impunity for the greatest offenders.<sup>2</sup>

In the matter of the Treaty the conduct of Lord Somers was beyond doubt open to criticism, and the secrecy to which he had lent himself was an especially sinister cum stance. At the same time it must not be forgotten that the modern doctrine that the Sovereign only acts on the advice and at the responsibility of his Ministers was still unknown. The course Lord Somers followed was clearly taken to meet the wishes of the King, the last man in Europe to concede anything to France which the necessities of the case did not in his judgment require. There is no reason to consider the Minister was actuated by any personal motive, and in the circumstances his impeachment by the Commons can only be explained by that bitter party malice which was so discreditable a feature of the parliamentary life of the times. One incident which occurred on April 14th, after Lord Somers had addressed the Lower House, is deserving of special notice. Before he withdrew the Speaker, pursuant to an order the House had adopted, called upon him to inform them

<sup>1</sup> Parl. Hist. V, 1266-1287 and 1314.

<sup>2</sup> Com. Journ. XIII, 639 ; Parl. Hist. V, 1314.

from whom he had received the information that his conduct was being there debated. Nothing could be finer than the spirit shown in the answer he gave which, as recorded in the Commons Journals, reads as follows: That he was strangely surprised at a question which he never knew was put to any man that came to desire a favour of being heard, and that if that question was asked to bring the least prejudice to any man in England, he would not only be content to lie under the censure of the House, but suffer the worst thing that might befall him upon earth, rather than do such a dishonourable thing.<sup>1</sup> It is perhaps needless to add that in face of this undaunted reply the question was dropped.

These proceedings against Lord Somers caused his friend Lord Shrewsbury to wonder how a man could be found in England who, having bread, would be concerned in public business. "Had I a son," he wrote, "I would sooner bind him a cobbler than a courtier and a hangman than a statesman."<sup>2</sup> The impeachment produced no estrangement between the fallen Minister and the King, upon whom Lord Somers' defence had necessarily placed the onus of the unpopular Treaty. William continued to consult him, and when another Parliament met in December, 1701, the speech from the throne with which it was opened is said to have been composed by Lord Somers.<sup>3</sup> This speech, remarkable for its appeal to the patriotism of the nation—confronted by the danger which threatened Europe from the insatiable ambition of Louis XIV—proved to be the last public utterance of William III, for he died on March 8th following.<sup>4</sup> Regarded by his subjects as a precious legacy, it was subsequently printed in English, Dutch, and French, with handsome decorations and framed and given a place of honour in almost every house in England and Holland.<sup>5</sup>

Had William III lived, there can be little doubt Lord Somers would soon have been invited to resume his former office, but the accession of Queen Anne, who favoured the Tories, and regarded the ex-Chancellor with aversion, entirely altered the political situation. He never again held the Seal. Thus relegated to private life, he none the less, as a member of the House of Lords, continued to play an important part in public

<sup>1</sup> Com. Journ. XIII, 489.

<sup>2</sup> Lecky, Hist. of England, I, 58.

<sup>3</sup> "The best," said Bishop Burnet, "any Prince ever made to his People" Own Times, IV, 546.

<sup>4</sup> Parl. Hist. V, 1333, 1334.

<sup>5</sup> *Ibid.* 1329-1331; Rapin (Tindal), III, 498, note.

affairs, and it is one of his finest characteristics that, rising superior to the party animosities of his time, he did not hesitate to give ungrudging support to the measures of his opponents where he believed them to conduce to the general good. Conduct so exemplary disarmed the Queen's hostility, and in 1705 he was restored to the Privy Council, from which he had been excluded at the beginning of her reign. By his promotion of Law Reform, his resistance to the pretensions of the Lower House in the Aylesbury Case,<sup>1</sup> which he denounced as an assumption of a power to control the Law and pervert Justice, his defence of the Regency Bill, and the part he played in the settlement alike of the Protestant Succession and the Union with Scotland, Lord Somers rendered valuable public service. In November, 1708, following upon a reconstruction of the Ministry (which first admitted Sir Robert Walpole to office as Secretary at War), Lord Somers was appointed Lord President of the Council, and had his advice been followed in the matter of Dr. Sacheverell, the foolish impeachment of that Churchman, which restored the Tories to office, would never have been undertaken. Nor were his interests confined to Law and politics. From 1698 to 1703 he was President of the Royal Society, only retiring in the latter year to make way for Sir Isaac Newton. Himself an accomplished scholar, he was a generous patron of learning in others, his sympathies extending far beyond the range of his own particular studies. Of his interest in Constitutional History the immense collection of Tracts and MSS. which he left at his decease affords convincing proof.<sup>2</sup> Several editions of selections from these have been published since his death. The best known is probably the edition in thirteen volumes issued between the years 1809 and 1815, and edited by Sir Walter Scott.

There can be no question about the immense respect entertained by Lord Somers' contemporaries for his ability and learning, but Whig writers have done his memory some disservice by their tributes of extravagant laudation. As typical may be cited the following eulogy of Horace Walpole :

“He was one of those divine men who like a chapel in a palace remain unprofaned while all the rest is tyranny, corrup-

<sup>1</sup> As to this case see *Parl. Hist.* VI, 375-438, and *post*, 630.

<sup>2</sup> Unhappily, sixty volumes of this collection were lost in a fire at Lincoln's Inn (1752) in the chambers of the Hon. Chas. Yorke, in whose possession they were at the time.



tion and folly. All the traditional accounts of him, the historians of the last age and its best authors represent him as the most incorrupt lawyer and the honestest statesman, as a master orator, a genius of the finest taste and a patriot of the noblest and most extensive views ; as a man who dispensed blessings by his life and planned them for posterity.”<sup>1</sup>

Such indiscriminate praise has naturally tended to produce some reaction. He has not been fortunate in the proofs which have survived of his distinction as an orator, and the reports of his decisions in Chancery are for the most part bare statements of the conclusions at which he arrived ; only the report of his celebrated judgment in the Bankers’ Case still affords evidence of the extent of his learning.<sup>2</sup> Thus, it is rather as a statesman than a lawyer that he is now remembered. In one respect, however, none need hesitate to accord him unqualified praise, for by his single-minded devotion to causes he believed to be for the general good, his superiority to personal aims and freedom from the violent party passions which poisoned the age in which he lived, Lord Somers set an example of inestimable value in English political life to succeeding generations of public men.

King William experienced some difficulty in finding a new Keeper of the Seal which he had required Lord Somers to surrender. At first it was placed in commission with Sir John Holt, Chief Justice, Sir Edward Ward, Chief Baron, and Sir John Trevor, Master of the Rolls.<sup>3</sup> This disposal of it only continued, however, for a few days, as Sir Nathan Wright, King’s Serjeant and Recorder of Leicester, undertook to discharge the duties of the office, and was appointed Lord Keeper on May 21st, 1701.<sup>4</sup> Like his predecessor, he had received his legal education at the Temple, having been a member of the Inner House, where he had been called to the Bar on November 29th, 1677. On the trial of the Seven Bishops he had appeared as junior counsel for the prosecution. His knowledge of the Common Law was sound, for he had enjoyed a considerable practice, but he had had no experience in Equity, and made so poor a figure as a Judge that it has been said of him “ the very men who had erected, were ashamed of worshipping the idol

<sup>1</sup> Lord Orford’s Works (1798 Edit.), IV, 431.

<sup>2</sup> State Trials, XI, 39–105.

<sup>3</sup> Tabulæ Curiales, 70.

<sup>4</sup> Foss, VII, 408–412.

they had set up," and of his eventual dismissal from office, that "he was fairly hooted out of it."<sup>1</sup> In such circumstances it is not surprising that though he held the Seal and presided over the House of Lords for four and a half years, he was never raised to the Peerage. In the person of his successor the honour of its custody passed once more to the Middle Temple.

William Cowper, first Lord High Chancellor of Great Britain,<sup>2</sup> sprang from an ancient family of royalist sympathies, endowed with property in Kent and Hertfordshire. His great-grandfather, Sir William Cowper, was created a baronet by King Charles I, and when Civil War came, took up arms and suffered imprisonment for the royal cause. The second baronet (grandson of the first) was the father of the future Lord Chancellor. Likewise a staunch supporter of the Monarchy, he was at the same time no favourer of Rome, and therefore content in the last two Parliaments of Charles II to throw in his lot with those who sought to exclude the Duke of York from the succession to the throne. Thus William Cowper early came under what may be called Whig influences. Of his life prior to the time when he joined the Middle Temple little is known. He was born in the year 1664, and placed for a time in a school at St. Albans. But there information ceases. No Public School claims him, nor does he appear to have attended either University. On March 18th, 1681, he was admitted a member of the Middle Temple Society. In the Book of Admissions his name is spelt "Cooper," which may be taken as evidence of the manner in which it was pronounced.<sup>3</sup> On the same day another member joined the Inn who also became a conspicuous figure in public life, and over whose trial by the Lords, Cowper as Lord High Steward was one day to preside. This was Robert Harley, three times Speaker of the House of Commons and favourite Minister of Queen Anne, destined to be impeached by the malice of the Whigs, and immortalised by the genius of Pope in the finest tribute ever paid to an English public man.<sup>4</sup> But Law had no attractions for Harley, and he never pursued its study.<sup>5</sup>

<sup>1</sup> Biog. Hist. (Noble), I, 35, 36.

<sup>2</sup> See generally Welsby's English Judges, 135-171; Foss, VIII, 18-28; D.N.B. XII, 389-393.

<sup>3</sup> Folio 396.

<sup>4</sup> "A soul supreme in each hard instance tried  
Above all pain all passion and all pride  
The rage of power the blast of public breath  
The lust of lucre and the dread of death."—Epistles, 1721.

<sup>5</sup> In 1701, after he had served as Speaker, Harley was admitted to Lincoln's Inn (July 25th), and on November 13th called to the Bar and made an

Harley C. Ad. <sup>March 18th 1681.</sup> Robert Harley Ad. filius at bond appand  
 H. 1. <sup>Edm Harley & Bramton - Asstle in Bond</sup>  
 Harshard Milid Balam dampus oft in  
 Soristadon Maly gamp li. p. d. litor et  
 obligatur ex tunc - 04 - 00 = 00  
 Et dat p. fine  
 Harley C. Ad. <sup>March 18th 1681.</sup> Robert Harley filius p. d. litor et  
 H. 1. <sup>Edm Harley & Bramton - Asstle in Bond Harshard</sup>  
 Milid Balam dampus oft in Soristadon  
 Maly gamp li. p. d. litor et obligatur  
 ex tunc - 04 - 00 = 00  
 Et dat p. fine  
 Cowper W. Ad. <sup>March 18th 1681.</sup> Robert Cowper filius at bond appand  
 H. 1. <sup>Edm Cowper & Harshard in Bond Harshard</sup>  
 Cowper dampus oft in Soristadon Maly  
 gamp li. p. d. litor et obligatur ex tunc -  
 04 - 00 = 00  
 Et dat p. fine





On November 26th, 1683, William Cowper was admitted to a chamber at the east end of Pump Court (the part formerly called Vine Court), paying a fine of £5 to the Inn;<sup>1</sup> and on May 25th, 1688, he was called to the degree of the Utter Bar.<sup>2</sup> After the brief interval of five or six years, he was given the rank of King's Counsel, probably through political influence, and appointed Recorder of Colchester.<sup>3</sup> In 1695 he was returned to Parliament as colleague to his father in the representation of Hertford, and re-elected for the same constituency in 1698.<sup>4</sup> Until his appearance in the House of Commons nothing is known of him which adequately explains the rapidity of his rise to fame. As a student he was subject to fits of dissipation, which led him into evil courses, and although he married about the time of his call to the Bar, he appears to have been already the father of two natural children by a lady of some position, whom he had seduced into an irregular union. This blot on his moral character—which afterwards raised doubts as to his fitness to be the Keeper of the Queen's conscience—earned him from the malicious pen of Swift the unsavoury nickname of "Will Bigamy."<sup>5</sup>

The advent of the Prince of Orange, in December, 1688, at once revealed his political sympathies. Assembling a troop of friends, he hastened to meet the deliverer, and, attaching himself to the Prince's escort, wrote to his wife from Windsor a letter the spirit of which is summed up in the sentence, "You cannot conceive the pleasure there is in seeing the fountain of this happy revolution."<sup>6</sup> His first work at the Bar was on the Home Circuit, where his family influence at once secured him some briefs, but that in a few years he was "the decided leader" of that Circuit, as Lord Campbell suggests, seems extremely improbable. Indeed, had such been the case, the Benchers of the Middle Temple would hardly have refused as they did to elect him one of their number. Light, however, on the causes of his ultimate distinction comes with his entry into the political arena. Gifted by nature with an engaging appearance, self-reliance, and a finely toned voice, in the House of Commons he

Associate of the Bench there *honoris causa*: Black Bks. III, 210; Adm. Bk. I, 360.

<sup>1</sup> Admissions Bk. I, 445.

<sup>2</sup> E. 363.

<sup>3</sup> Welsby (English Judges) says less than five years (p. 136); but the actual date seems uncertain.

<sup>4</sup> Parl. Hist. V, 960; also 1186.

<sup>5</sup> Examiner, No. 23.

<sup>6</sup> Campbell, Chancellors, IV, 265, where this letter is set out.

at once stepped into the front rank of Parliamentary debaters, and soon became in that Assembly the acknowledged leader of his Party.<sup>1</sup> His fame as a House of Commons orator must have re-echoed in Westminster Hall, and no doubt from this time business flowed in upon him. In 1696 he was engaged as one of the Counsel for the Crown in some of the trials for treason which were occasioned by the plot to assassinate King William and restore the Stuart family.<sup>2</sup> He was also concerned in the proceedings against Sir John Fenwick, and when it became evident that a conviction at law could not be obtained for want of evidence, he did not scruple to urge the House of Commons to secure Fenwick's destruction by a Bill of Attainder.<sup>3</sup> On the trial of Lord Mohun for murder in 1698, Cowper was again one of the Counsel for the Crown, and seems to have acquitted himself with distinction.<sup>4</sup> In 1701 he was returned to Parliament as member for Beeralston, for which seat he was again elected in the following year,<sup>5</sup> when the recognition of the Old Pretender as King James III by the French Court roused the wrath of England and gave the Whigs a majority at the polls. Cowper now, no doubt, anticipated office; but if so, his hopes were disappointed, for the unexpected death of William III,<sup>6</sup> followed by the accession of Queen Anne, who placed her confidence in the Tories, gave his opponents a new lease of power. For three and a half years longer he continued to lead the Whigs in the House of Commons, showing at the same time an honourable independence, for he patriotically supported the war with France which his party did not favour, and resisted the extreme pretensions of the House in their protest against the decision of the Lords in the Aylesbury Case that an action will lie at the instance of an aggrieved elector against a returning officer in a Parliamentary election who has wrongfully rejected that elector's vote.<sup>7</sup> Fortune turned with the general elections of 1705, the results of which proving disastrous to the Government, forced the Queen to recognize the necessity of placing her confidence in Ministers not exclusively drawn from the Tory party. Accordingly, Sir Nathan Wright, at this time Lord Keeper,

<sup>1</sup> "The first day he entered the House he spoke thrice and each time with great applause": *Biog. Hist. (Noble)*, II, 16.

<sup>2</sup> *State Trials*, XIII, 1-451.

<sup>3</sup> *Parl. Hist.* V, 1141-1144.

<sup>4</sup> *State Trials*, XIII, 1055.

<sup>5</sup> *Parl. Hist.* V, 1324; VI, 42.

<sup>6</sup> March 8th, 1701/2.

<sup>7</sup> *Ashby v. White*: see *Parl. Hist.* VI, 279-285.

and whose tenure of office had reflected little credit upon the Government, was deprived of the Great Seal, which Queen Anne, on the suggestion, it is said, of her confidante the Duchess of Marlborough, and passing over the Attorney- and Solicitor-General, confided at Kensington Palace on October 11th to the custody of William Cowper, Esq., described in the London Gazette announcing the event, as "one of her Majesty's learned Council in the Law."<sup>1</sup> Being still a member of the Middle Temple Society, for he had never been called to the Serjeant's degree, the new Lord Keeper kept his first public Seal on October 18th in the Middle Temple Hall, and, five days later, at the opening of the Michaelmas Sittings on Thursday the 23rd, held his Levee in the parliament chamber of the Benchers.<sup>2</sup> An occasion surely not wanting in irony seeing that he had formerly knocked in vain at the door of that room for admission as King's Counsel to the privileges of the Bench. This Levee, no doubt on account of the political prestige of the new Lord Keeper, proved a remarkable function. It was attended not only by the Judges and other legal luminaries of the day, but also by such high officers of State as the Lord Treasurer (Godolphin), the Lord Privy Seal (Duke of Newcastle), the Lord Chamberlain (Earl of Kent), and the Master of the Horse (Duke of Somerset), together with the Earl of Essex, Lords Orford, Halifax, Rivers, Cornwallis, Somers, and many other Lords Commissioners and Privy Councillors, who afterwards forming a procession, such as had rarely been witnessed on like occasions, escorted the Lord Keeper to his Court in Westminster Hall, where he took the oaths of allegiance and supremacy.<sup>3</sup> During his first year of office he presided as a Commoner over the House of Lords, for it was not until November 9th, 1707, that he was raised to the Peerage as Lord Cowper of Wingham in the County of Kent, and thus became entitled to take part in the debates of the House. More distinguished as a politician than a lawyer, he was fortunate in not being the immediate successor of Lord Somers, for he lacked the profound learning of that distinguished Judge. He possessed, however, natural

<sup>1</sup> London Gazette, No. 4166.

<sup>2</sup> Private Diary; Roxburghe Club, XLIX, 4, 6.

<sup>3</sup> "During these great Honours done me," wrote Lord Cowper in his private diary, "I often reflected on the uncertainty of them and even of life itself; I searched my heart and found no pride or self conceit in it; and I begged of God that he would preserve my mind from relying on transient vanity of the world and teach me to depend only on his Providence; that I might not be lifted up with the present success nor dejected when the reverse should happen": pp. 6, 7.

dignity, a nimble mind, and an engaging manner, and these qualities soon won him golden opinions from those practising in his Court.

“The Lord Cowper,” afterwards wrote the Duke of Wharton, “came not to the Seals without a great deal of prejudice from the Tory party in general, among whom I believe, there was not one but maligned him. But how long did this scene continue? He had scarcely presided in that high station one year, before the scales became even, with the universal applause and approbation of both parties. All signs of prejudice were removed and Tories and Whigs joined in admiration of his most excellent qualities.”<sup>1</sup>

At the commencement of his judicial career the new Lord Keeper inaugurated a reform which occasioned no little stir at the time. He refused to receive the New Year’s gifts which had hitherto been presented to the holder of the Seal by the Bar and officers of the Court of Chancery: a practice he considered objectionable as savouring of bribery. This reform cost him a considerable pecuniary sacrifice, for these gifts appear to have aggregated in value not less than £1500 per annum.<sup>2</sup> As Lord Keeper he was appointed one of the Commissioners for the Union which was then being negotiated with Scotland, and, by the side of Lord Somers, played a leading part in the settlement of the articles of agreement under which it was accomplished. On May 4th, 1707, he received the higher title of Lord Chancellor, and became the first Lord High Chancellor of Great Britain.<sup>3</sup> Over the trial of Dr. Sacheverell, foolishly charged by the Commons with publishing in his sermons scandalous and seditious libels, Lord Cowper presided as Lord High Steward with great fairness and impartiality.<sup>4</sup> The proceedings, however, proved disastrous to the Whig party, for they made the accused a popular hero, and at the ensuing general election the Tories, to the cry of the Church in danger, swept the country. The result to be expected followed. Lord Cowper’s Whig colleagues were dismissed by the Queen, and he himself, considering it a point of honour to follow the fortunes of his friends, surrendered the Great Seal on September 23rd, 1710, despite the efforts of Harley, the head of the new adminis-

<sup>1</sup> Welsby’s English Judges, 145.

<sup>2</sup> London Gazette, No. 4328.

<sup>3</sup> Burnet’s Own Times, V, 250.

<sup>4</sup> State Trials, XV, 466.



tration, to induce him to remain in office.<sup>1</sup> The next four years he spent in opposition, battling with Lord Somers against the conclusion of any peace which would leave Spain and the West Indies under the control of a Bourbon Prince. But England was weary of war, and welcomed its cessation with the Treaty of Utrecht (March 13th, 1712/3). To the Schisms Bill of 1714, which, though nominally a measure for the greater security of the Established Church, would have closed the schools of all Protestant Dissenters, had it become law, he offered an equally determined resistance. Nevertheless, the Bill passed both Houses, but the death of Queen Anne, on August 1st, prevented it taking effect.<sup>2</sup>

The peaceful accession of the House of Hanover, which placed the Whigs in power, opened the way for Lord Cowper's return to the Woolsack, and on September 21st, 1714, the Great Seal was once more placed in his keeping.<sup>3</sup> Again, at the opening of the Michaelmas Term, there was a great procession from the Middle Temple to Westminster Hall. When Parliament met, the debate in the Lords upon the address in reply to the King's Speech, was made memorable by the last great speech delivered by Lord Bolingbroke (soon to seek safety in flight), esteemed by common consent the most brilliant orator either House of Parliament ever produced. To this oration it fell to Lord Cowper's lot to make reply.<sup>4</sup>

The new King had not taken the trouble to learn the language of the country over which he was now called to reign, and was equally ignorant of English political life. Lord Cowper accordingly, for his Majesty's information, drew up what he called an "Impartial History of Parties." Printed in full by Lord Campbell as an Appendix to his *Life of the Chancellor*,<sup>5</sup> it is an able statement skilfully put together, but obviously intended to convey the impression that the fortunes of the House of Hanover were bound up with those of the Whig Party, and that Tories were dangerous enemies deeply infected with the virus of Jacobitism. As the King knew no English and Lord Cowper was as ignorant of French, it was submitted to George I in a French translation made by Lady Cowper from her husband's

<sup>1</sup> Parl. Hist. VI, 911; Foss, VIII, 24.

<sup>2</sup> Parl. Hist. VI, 1351, 1355, 1356.

<sup>3</sup> This time at St. James's Palace; with a few words from King George in French. To which Lord Cowper replied in English. Neither understanding the language used by the other: *Diary*, 57; *London Gazette*, No. 5262.

<sup>4</sup> Parl. Hist. VII, 45, 46.

<sup>5</sup> *Chancellors*, IV, 421-429.

MS., but whether his Majesty ever read it seems open to doubt. Lord Cowper retained the Great Seal till 1718,<sup>1</sup> and thus presided as Lord High Steward over the trials of the rebel Lords concerned in the Jacobite rising of 1715, as well as that of Harley (now Earl of Oxford), impeached by the Commons. Other matters of note during his second tenure of office were the passing of the Riot Act (1715) and the Septennial Act (1716). On April 15th, 1718, he resigned the Seal, finding his position in office untenable through a palace intrigue arising out of the conflicting interests of King George and his heir. A month earlier, on March 18th, he had been rewarded for his public services by being advanced to an Earldom.<sup>2</sup>

In his closing years, such (as has been pointed out) are the vicissitudes of public life, Lord Cowper found himself "sitting on the same bench, voting in the same minorities and joining in the same protests" in the House of Lords as his old opponent, Robert Harley, over whose impeachment he had presided as Lord High Steward.<sup>3</sup> In two matters his conduct was specially noteworthy. To the Peerage Bill of 1719, aimed at limiting in the interests of an oligarchy the prerogative of the Crown to make further creations, he offered a strenuous resistance, and equally vigorous was his denunciation of the South Sea Scheme, with its delusive promise of riches. A Trojan horse, he called it, "contrived for treachery, ushered in by fraud, received with pomp, but big with ruin and destruction."<sup>4</sup> He died on October 10th, 1723.

Among the holders of the Great Seal Lord Cowper's fame is that of a statesman rather than a lawyer. Bishop Burnet correctly divined the reason of his great success in life when he noted on Cowper's appointment as Lord Keeper that for many years he had been "considered as the man who spoke the best of any in the House of Commons."<sup>5</sup> Nevertheless, having attained his high office, he filled it with distinction, for if he had not the reasoning powers of Lord Somers (whose arguments have been likened to geometrical stairs, one supporting the other),<sup>6</sup> he possessed exceptional gifts of another kind, which exercised a fascination over all who heard him.

"Lord Chancellor Cowper's strength as an orator," wrote Lord Chesterfield, "lay by no means in his reasonings for he

<sup>1</sup> Foss, VIII, 25.

<sup>2</sup> See Welsby's English Judges, 160.

<sup>3</sup> Own Times, V, 224.

<sup>4</sup> London Gazette, No. 5625.

<sup>5</sup> Biog. Hist. (Noble), II, 17.

<sup>6</sup> Biog. Hist. (Noble), I, 33.

often hazarded very weak ones. But such was the purity and elegance of his style, such the propriety and charms of his elocution and such the gracefulness of his action that he never spoke without universal applause ; the ears and the eyes gave him up the understandings of the audience.”<sup>1</sup>

The career of one other son of the Temple remains to be noticed. Simon Harcourt, whose name still survives in the Temple in Harcourt Buildings (the only Lord Chancellor thus honoured), was the son of Sir Philip Harcourt, of Stanton Harcourt, Oxfordshire. His family is said to have been of so great antiquity that he could boast a pedigree extending far beyond Norman ancestors. A distinction of a kind usually valued by the possessor though commonly despised by such as can lay no claim to it. From Pembroke College, Oxford, he was admitted to the Inner Temple, specially and gratis, on April 16th, 1676, at the early age of sixteen,<sup>2</sup> and called to the degree of the Utter Bar on November 25th, 1683.<sup>3</sup> Through family influence he became Recorder of Abingdon while still in the twenties, and at the age of thirty entered Parliament in 1690 as member for that borough.<sup>4</sup> Identifying himself with the Tory Party, he rapidly acquired a high reputation as a skilful debater. In particular, he distinguished himself in the resistance he offered to the Bill for the attainder of Sir John Fenwick. To his honour he would be no party to this device of the Commons for securing the execution without trial of those whom they could not convict of treason by legal process. To the argument that the Bill ought to pass because the House had the power to enact it, he replied :

“ It is no argument because I can do a thing therefore I will do it ; because we have the power to repeal Magna Charta and all other subsequent laws which have been made in favour of life and liberty and property, by the same consequence we ought to do it : a better reason must be given me before I consent to this bill.” And again, “ I shall add no more,” he exclaimed in his final speech on the subject, “ but that we are making a precedent which cannot be made without breaking

<sup>1</sup> Letters (Edit. 1845), I, 368.

<sup>2</sup> A.P. IV, 75.

<sup>3</sup> *Ibid.* 128.

<sup>4</sup> Parl. Hist. V, 541 : which he continued to represent during the next twelve years : see 958, 1184, 1226, 1324, and VI, 41.

through all the fences of the law and when it is made we know not who may suffer by it." <sup>1</sup>

The bill passed, however, and Sir John Fenwick paid the penalty with his life.

Regarding Harcourt's professional work at this time little is known, but his practice must have been considerable, for his political activities did not prevent him acquiring a great reputation as an able lawyer. The part he played in bringing about the impeachment of Lord Somers has already been noticed. In that by no means creditable proceeding he was chairman of the Committee of Management, and as such the ruling spirit of the Commons. With the accession of Queen Anne the way was opened for his professional advancement. On May 30th, 1702, he was sworn in as Solicitor-General, and on June 1st dignified with the honour of knighthood,<sup>2</sup> to which his old University soon added the degree of D.C.L. As Solicitor-General he was called to the Bench at the Inner Temple June 14th, 1702, and on the 15th of the following November chosen Treasurer of the Inn.<sup>3</sup> To the first Parliament of Queen Anne he was again returned as member for Abingdon, but in that of May, 1705, represented the borough of Bossiney in Cornwall.<sup>4</sup> In April of the same year he had been appointed one of the Commissioners for the Union with Scotland, and the easy passage through Parliament of the bill for this purpose has been attributed to the skill with which he drew it. Two years later he was advanced to the higher office of Attorney-General, but resigned it when his colleagues, Harley and St. John, retired from the Ministry.<sup>5</sup> To the Parliament which met in May, 1708, he was once more returned as burgess for Abingdon, but unseated in the following January by one of those corrupt Party votes which at that time decided all questions of contested elections.<sup>6</sup> The petition against him, says Speaker Onslow, was "carried on with great heat and violence by the Government interest."<sup>7</sup> No doubt the Whig majority were delighted to exclude from the House in this way a formidable political

<sup>1</sup> State Trials, XIV, 538-758; Parl. Hist. V, 1016-1017, 1032, 1067-1068, and 1136-1139.

<sup>2</sup> Luttrell's Brief Relation, V, 178, 180; Shaw, II, 272.

<sup>3</sup> A.P. V, 69, 71.

<sup>4</sup> Parl. Hist. VI, 445.

<sup>5</sup> Luttrell's Brief Relation, VI, 267.

<sup>6</sup> Com. Journ. XVI, 65.

<sup>7</sup> Own Times, V, 441, note.



opponent. The loss of his seat left Sir Simon Harcourt free to appear as leading Counsel for the defence on the impeachment of Dr. Sacheverell for seditious libel.<sup>1</sup> He opened the defence of his client in a speech of remarkable power, which was described by a sympathetic hearer as "the noblest entertainment that ever audience had."<sup>2</sup> Harcourt's participation in the defence of Dr. Sacheverell, however, was cut short by his return to the House of Commons to fill a vacancy in the representation of Cardigan town.<sup>3</sup>

When the Tory reaction provoked by this trial brought Harley and St. John again into power, Harcourt was restored, in September, 1710, to his former place of Attorney-General; <sup>4</sup> but only retained it a few weeks, for on October 19th, at a Council at Hampton Court, he received the Great Seal as Lord Keeper.<sup>5</sup> Eleven months later (September, 1711) he was raised to the Peerage as Baron Harcourt of Stanton-Harcourt in the County of Oxford, and on April 7th, 1713, was given the higher title of Lord Chancellor.<sup>6</sup> On the death of Queen Anne (August 1st, 1714), he was continued in office by the Provisional Government of Lords Justices, which administered the affairs of the kingdom pending the arrival in England of the new Sovereign. His Jacobite sympathies, however, were too well known to make him a *persona grata* to the Elector of Hanover, and on September 22nd, the day after George I entered London, he was deprived of the Great Seal. Thus closed Lord Harcourt's judicial career. It has never been claimed for him that he made a great Judge, but Speaker Onslow, who did not regard him favourably, at least admits his "integrity in causes," and has paid him the tribute of stating, "He had the greatest skill and power of speech of any man I ever knew in a public assembly."<sup>7</sup> As hopes of a Stuart Restoration faded, Lord Harcourt, bowing to the inevitable, eventually fell into line with his former opponents, and gave his support to the Whig Government. In 1721 he was raised to a Viscounty, and in the following year once more admitted to the Privy Council; <sup>8</sup> but, except as one of the Lords Justices representing the Crown on three occasions

<sup>1</sup> State Trials, XV, 196-213.

<sup>2</sup> Dr. Smalridge, later Dean of Christ Church and Bishop of Bristol : see Nichols, Illustrations Lit. Hist. 18th Cent. III, 280.

<sup>3</sup> Parl. Hist. VI, 746; Luttrell, VI, 554.

<sup>4</sup> Luttrell, VI, 630.

<sup>5</sup> *Ibid.* 644; London Gazette, No. 4759.

<sup>6</sup> London Gazette, Nos. 4896, 5110.

<sup>7</sup> Own Times, V, 441, note.

<sup>8</sup> August 25th, 1722, London Gazette, Nos. 6088, 6089.

when King George was absent in his beloved Hanover, Lord Harcourt never again held office. On terms of intimate friendship with Pope and other poets and authors of his day, he found in their society some consolation for the misfortunes and disappointments of public life. He lived to see George II ascend the throne, but did not long survive that event, expiring on July 28th, 1727. His name and arms as a former Chancellor of the House have been inserted in the south bay window (left side) of the modern Hall of the Inner Temple Society.

## CHAPTER XVII

### THE TEMPLE UNDER THE LATER STUARTS—*concluded*

TOWARDS the close of the reign of Charles II, the attention of ingenious persons seems to have been directed to improving the lighting of streets and other public places. It is therefore not surprising to find the subject engaging the attention of the ruling authorities in the Inns of Court. In 1687 the Benchers of the Middle Temple entered into negotiations with a person who was prepared to undertake the better lighting of the Inn, and on June 10th the Treasurer was authorized (in consultation with other Masters of the Bench) to do what he thought best concerning proposals made by this undertaker for setting up "Lucidaryes" in the several courts and avenues of the House.<sup>1</sup> From a subsequent entry in the Minutes of parliament it appears that the name of this undertaker was Hemnings.<sup>2</sup> A contract for lighting the Inn must have been promptly made with him, for in February, 1687, an order was passed that in future no member of the Society should be called to the Bar without paying 40s. to be applied towards the expense of the organ and "Lucidaryes."<sup>3</sup> At first the lamps seem to have been taken on hire, for in May, 1688, the Treasurer was instructed to enter into an agreement with the undertaker for buying or continuing the use of his Lucidaryes in the courts and avenues of the Inn.<sup>4</sup> From items in the Annual Accounts it appears that the sum paid for these lamps in June, 1690, was £40 per annum, and that by April, 1692, sixteen had been set up and were in use in the Middle Temple; the charge of £40 covering also "oyle" and lighting.<sup>5</sup> They appear to have proved satisfactory, for many years later a duty of 40s. was still being imposed on members called to the Bar by the Society for the purpose (*i.a.*) of meeting the cost of these lights.<sup>6</sup>

<sup>1</sup> E. 355.

<sup>2</sup> E. 372; also Treasurers' Accts. Bk. (1689/90), 220.

<sup>3</sup> E. 361.

<sup>4</sup> E. 362.

<sup>5</sup> Treasurers' Accts. Bk. 220, 226, 234; M.T. Cal. 184.

<sup>6</sup> See Master Worsley's Bk. (Ingpen), 158. It is remarkable that there

The Inner Temple Benchers about the same time also took steps to improve the lighting of their House. From a Bench Table Order of November, 1688, it appears patent lamps were then being used there, and that it was proposed to employ six more; but their nature is not stated.<sup>1</sup> In 1690 four great lights were placed in the Great Court (probably King's Bench Walks); one large square light set up for Mr. Treasurer; another placed in Mitre Court; and lamps with three glasses provided for Tanfield Court, Hare Court, Fig Tree Court, and the end of the cloisters. The cost of these was in all £47.<sup>2</sup> These lamps appear to have been an experiment and not altogether satisfactory. For the next reference to the matter which has been traced occurs nine years later, and shows that the Inn was then being lit by the proprietors of the Convex Lights, the same number of lights being used (16) and at the same rent (£40 per annum) as in the case of the Middle Temple.<sup>3</sup>

From subsequent entries in the accounts of the Inn, it appears that convex lights were still in use there in 1705, £20 being paid for them that year from Michaelmas to Christmas.<sup>4</sup> Prior to that date, however, a certain Richard Cole had discovered "a new and extraordinary way or invention of forming glasses in conicall figures and lamps peculiar to himselfe," and a patent giving him the sole use and benefit of this invention was granted him on July 29th, 1704.<sup>5</sup> This device seems to have commended itself to the Inner Temple Society, for their General Account Book shows that in the year 1712 the proprietors of Conic Lights were paid £40 "for their lamps last winter."<sup>6</sup>

The lamps above mentioned were used for outdoor lighting. The staircases of the various chamber buildings in the Inner Temple were lit by candles,<sup>7</sup> as were also both the Inner and Middle Temple Gates during the winter months, three candles a night being allowed for this purpose at the Inner Temple.<sup>8</sup> No doubt the Middle Temple staircases were lit in a similar manner.

The buildings erected in the Middle Temple, after the does not seem to be any account of what the term "Lucidaryes" connoted. The word has not been traced in any other connection, and in the Oxford Dict. (Murray) the only illustration given of its use is an extract from the Middle Temple Records.

<sup>1</sup> B.T.O. II, November 7th, 1688.

<sup>2</sup> Gen. Account Bk. (1689-90).

<sup>3</sup> *Ibid.* (1698-9).

<sup>4</sup> *Ibid.* (1705-6).

<sup>5</sup> Chron. Index of Pats. Pt. I, 69 (No. 372); Reference Index, 44.

<sup>6</sup> Gen. Acct. Bk. June 15th, 1712.

<sup>7</sup> B.T.O. IV. (February 15th, 1699): I.T.R. III, 355.

<sup>8</sup> Gen. Acct. Bk. (I.T.), 213; Treasurers' Accts. Bk. (M.T.), 82.



disastrous fire of 1678, had included chambers in the garden below the Hall on the west side of Middle Temple Lane. These chambers, however, only extended a part of the way towards the water gate. In 1687 the Benchers decided to utilize the remaining space in the Lane by building further chambers down to the river. Again the work was entrusted to Dr. Barbon, and the particulars of the agreement made with him are entered on a minute of June 15th. The new building was to commence 20 feet below the existing Garden Chambers, so that an open space of that width might be left as a passage way into the Lane between the two blocks of chambers. It was to be a substantial and ornamental brick building having four chambers to a floor. Two of the chambers were to be reserved for Bench chambers, but the contractor was given full power to dispose of the rest to any members of the Society for a life interest and two assignments, the first admittance to be free of any fine to the House, and 40s. to be payable on admittances under the assignments. The contractor was allowed a period of one year after the building was completed in which to dispose of the new chambers. The Benchers further stipulated that he should pave the void ground or passage between the existing chambers and the new building with Purbeck stone, but conceded him the right to erect there two (later increased to three) small shops which he was subsequently empowered to let to nominees of his own, on leases of fifty-one years.<sup>1</sup>

The building seems to have been erected within a year, for in May, 1688, the Benchers selected as Bench chambers two chambers, one pair of stairs high, facing west, and thus overlooking the garden. One of these was at the north and the other at the south end of the new block. They were wainscoted and fitted up at the expense of the Society.<sup>2</sup> The south chamber was allotted to Sir Charles Porter the Treasurer, who had resumed practice at the Bar after serving for a brief period as Irish Lord Chancellor of James II. If he ever occupied this chamber his enjoyment of it must have been short, for on the Accession of William and Mary, he was reappointed to his former office in Ireland, and died there in 1697.<sup>3</sup>

In the Long Vacation of 1688, Middle Temple Lane was repaved by the Society and the steps of the Temple Bridge repaired.<sup>4</sup>

<sup>1</sup> E. 356, 369.

<sup>2</sup> E. 365.

<sup>3</sup> D.N.B. XLVI, 170-172; where, however, the date of his death is incorrectly stated as 1692.

<sup>4</sup> E. 365.

The next building operation was at the north end of Middle Temple Lane. A proposal to rebuild chambers beside the Great Gate had been made in 1684, and a committee appointed in June of that year to superintend the work. Information as to what was then done is scanty, and it may be that the proposed rebuilding was not in fact carried out. For in February, 1692, a petition was presented by three tenants of the building next the Gate, alleging it was decayed, and asking permission to rebuild it,<sup>1</sup> and on May 5th, 1693, authority to do so was granted. The new structure was to be the same as its predecessor for height and number of chambers, viz. four stories high above the cellars and with substantial oak timbers in front for convenience of light.<sup>2</sup>

In June, 1700, the rebuilding of a "ruinous" staircase in Inner Temple Lane was authorized. The work was carried out by the tenants, who had two assignments added to their former interest in recompense for their outlay.<sup>3</sup> This building, which from a subsequent entry appears to have been situated in the passage to the north churchyard, was completed by October, 1701.<sup>4</sup> Since the reign of Elizabeth, the Temple Societies had accepted responsibility for the upkeep of the Temple Bridge. It was now urgently in need of repair, and in February, 1702, they agreed to execute the necessary works as a joint undertaking.<sup>5</sup> From the Accounts of the Inner Temple, it appears that £90 was expended by the two Inns on masonry for this purpose.<sup>6</sup> In the matter of this Bridge, the Societies seem to have been unfortunate, for owing to a storm of great severity, part of it suffered fresh damage soon after the work above mentioned was completed, as appears by an obligation of £12 10s. which the Societies jointly discharged on January 28th, 1703/4, on "a Bill of Carpenters Worke Done for the honorable Societies of the two Tempells in repairing ye staires leading into ye Thames After the grate Tempest which hapned Nov<sup>r</sup> 26<sup>th</sup> 1703." <sup>7</sup>

One further incident remains to be noticed in connection with the buildings of the Middle Temple Society. In April, 1704, a fire occurred in Brick Court. Fortunately it did not involve the whole Court, but sufficient damage was done to make it necessary to rebuild the staircase now known as No. 3;

<sup>1</sup> E. 394.<sup>2</sup> E. 395-399.<sup>3</sup> E. 475.<sup>4</sup> E. 480.<sup>5</sup> E. 503; B.T.O. IV, "at the equal charge of both Temples."<sup>6</sup> Gen. Acct. Bk. June 26th, 1703.<sup>7</sup> I.T. Miscellanea, VIII, No. 40. The items of this bill include £4 for "2 oake pyles each 20 foott long."

Brick Court. The disaster and the rebuilding (during the Treasurership of Master Martin Ryder) are commemorated by an inscription which may still be seen above the entrance "Phoenicis instar Revivisco Martino Ryder Thesaurario An<sup>o</sup> Dom. 1704." Two items in the Accounts of the Inn for the year 1703-4 relate to this catastrophe, namely :

"Paid bill to Engineers and others that assisted to extinguish ye late ffire in Brick Cort, April 6<sup>th</sup> 1704, £40 16. 6." ; "paid for re-building Mr. Whitfield's Bench Chamber lately burnt downe £115. 14. 0." <sup>1</sup>

Two important building undertakings must now be noticed in the Inner Temple. The first of these concerned the chambers below the Hall on the west side of the King's Bench Walks. Some account has already been given of the building erected here in the reign of James I by Mr. Edward Heyward and other gentlemen of the House, and which numbered John Selden among its tenants. At first known as Heyward's Building these chambers soon became the subject of adverse comment on account of the inferior mode of their construction, and early in the reign of Charles I a desire was expressed to have them taken down and rebuilt at the first available opportunity.<sup>2</sup> Interests in them had been created, however, for which the occupiers had given value, and it was only after these had fallen in to the House that the building could be dealt with as a whole. The turmoil of the Civil War naturally put a stop for the time to the proposed reconstruction of these chambers. Nor were any steps taken to carry it out under the Commonwealth or during the early years of the *de facto* reign of Charles II. From other evidence than the records of the Inns, it appears that these chambers at some time prior to the Great Fire of 1666 had acquired a new designation and were known as Paper Buildings.<sup>3</sup> Though they seem to have suffered some injury at that time, they escaped the destruction which then befell other parts of the Temple, and it is not until 1678 that a proposal to rebuild them is again in evidence. It is mentioned as Simpson's proposal

<sup>1</sup> Treasurers' Accts. Bk. 325.

<sup>2</sup> A.P. II, 174 (April 26th, 1629) : see *ante*, p. : 94 and note 3.

<sup>3</sup> See letter of a resident in the Middle Temple during the Great Fire of 1666, which mentions Paper Buildings in the Inner Temple : London Redivivus (Malcolm), IV, 76. The name occurs in the Inner Temple Records, May 27th, 1677, in connection with a chamber allotted to the Master of the Revels : see A.P. IV, 77.

in a Bench Table Order of June 18th of that year.<sup>1</sup> Nothing, however, came of this project, perhaps owing to the loss sustained by the Inn through the serious fire which broke out in the Middle Temple seven months later. At length, in July, 1682, a committee was appointed to settle the matter about the Paper Buildings and secure the builders' interest. At this time (July 6th) there is also reference to a proposal to extend the buildings by adding a third staircase towards the waterside.<sup>2</sup> But again there was delay, the cause of which is perhaps explained by the following order made on June 26th, 1683 :

“Whereas the buildings called the Paper Buildings in this Society being by their antiquity become ruinous and in decay and not suitable to or complying with the uniformity and beauty of the rest of the buildings of this House severall proposalls have been received from and made to the present proprietors and owners of the respective chambers in the said Paper Buildings by the Masters of the Bench of this Society for the re-building the same, butt with little or noe success by reason of the particular and private advantages demanded and insisted upon by the said proprietors for the building of the same which this House could not agree to without very apparent great losse and prejudice to the Publique interest and well being of the Society if such particular and private advantages should be preferred and take place before the publique benefitt and profit of the same It is therefore ordered that the said Paper Buildings shalbe rebuilt at the charge of the House when the said respective chambers in the said buildings shall come into the power of the House,” etc.<sup>3</sup>

After this matters seem to have progressed more rapidly, for on November 27th, 1684, notice was directed to be given to all persons having any chamber in or inhabiting Paper Buildings to leave and depart from the same and remove their goods within one week after next term, so that the building might be pulled down and rebuilt

“by the several persons interested therein and erected according to and in likeness with the Buildings called Sir Thomas

<sup>1</sup> B.T.O. I, 12.

<sup>2</sup> A.P. IV, 115.

<sup>3</sup> *Ibid.* 125.



Robinson's Building opposite the same, viz.—four stories high, the ground chambers that now are to descend with steps."

It was further resolved that the interest granted in the new chambers should be one life and one assignment only, after which they were to revert to the House.<sup>1</sup> Some delay followed, as the occupants of the ground chambers were not satisfied with the plan or model upon which the others had agreed. But all matters were finally arranged by February 17th, 1684, when the old building was ordered to be pulled down and demolished.<sup>2</sup> This was apparently done in the next few months, for on July 9th, 1685, "the respective proprietors of the late Paper Buildings as alsoe the new subscribers," were required to pay in their money for the new building within a fortnight. Failing which the chamber interest of the defaulter was to be absolutely at the disposal of the Society for the use of the House.<sup>3</sup> From a subsequent view of the Temple, issued in 1720, it appears that Paper Buildings as rebuilt at this time extended to the river wall, like the chambers opposite them on the east side of the King's Bench Walks.<sup>4</sup>

The second undertaking was on the west side of the great garden. When Queen Anne succeeded to the throne, this garden extended on the west to the Middle Temple Lane, from which it was separated by a wall. At the top of the garden and facing towards the river were the chambers known as the Crown Office Chambers. Erected in 1629, they terminated westwards in a block of chambers lying north and south on the east side of Middle Temple Lane.<sup>5</sup> Access for vehicles from the Lane through this block was given by an archway in respect of which Mr. Perrott who occupied the chamber over it, petitioned the Benchers in 1685, alleging it to be damaged by coaches and the weather.<sup>6</sup> Two years later, in November, 1687, Mr. Edward Probys made a proposal to build down the west side of the garden along the Lane which was referred to a Bench Committee,<sup>7</sup> by whom nine conditions were propounded to govern the building. These, however, did not prove attractive to any member of the Society, and nothing further resulted at this time.<sup>8</sup> The offer which the Benchers at length accepted came fifteen years later from a

<sup>1</sup> A.P. IV, 141.

<sup>2</sup> *Ibid.* 145, 146.

<sup>3</sup> *Ibid.* 151.

<sup>4</sup> Stow's Survey (Edit. 1720), I, 271.

<sup>5</sup> A.P. II (November 6th, 1627); B.T.O. II (October 29th, 1687).

<sup>6</sup> B.T.O. I, 44, 45.

<sup>7</sup> *Ibid.* 68.

<sup>8</sup> *Ibid.* 70.

gentleman who was a stranger to the Inn. This was Mr. John Banks, citizen and haberdasher of London, who on May 3rd, 1703, signed an agreement with Sir Simon Harcourt, Solicitor-General, and then also Treasurer of the Society, by which he undertook to build three staircases on the west side of the garden towards the river, each staircase to contain 50 feet in front and 27 in depth, to be three stories high (besides cellars and garrets) and built of brick. The walls were to be of specified thickness,  $2\frac{1}{2}$  bricks at the ends and in the cellars front and rear; first story, 2 bricks; two upper stories and party walls,  $1\frac{1}{2}$  bricks. The front windows (except cellars and garrets) were to have sash frames and sashes glazed with crown glass, and the roofs of all three staircases were to be covered with lead. The undertaker also agreed to build at the north end of the new chambers, and between them and the Crown Office staircase, "two stories in workmanlike manner with brick and leaded on the topp," containing 10 feet in front and provided with chimneys and to make a passage out of the first story into the garden, below the paved walk there. Both of these stories were to be at the disposal of the House, for such uses as the Society should appoint. Further, Mr. Banks undertook to erect a wall, 2 bricks thick, at a distance of 12 feet from the garden front of his new building, down the whole length of it to the river, and pave the space thus enclosed with Purbeck stone. In return for his outlay he received a grant of the necessary ground and the right to appoint to each of the new chambers for one life with the benefit of one assignment: his appointees to be members of the Society. He agreed to pay the Society £100 and a further sum of £100 when he disposed of the first chamber.<sup>1</sup> His operations entailed the destruction of the gardener's house, the materials of which were given him. He seems to have faithfully carried out the agreement, for there is no subsequent reference to the matter. But the good haberdasher was deprived of the honour of having his name perpetuated in the Temple, for the new chambers instead of being called after the builder received their designation from the Treasurer, Sir Simon Harcourt,<sup>2</sup> and although these chambers no longer exist the stone buildings which succeeded them are still known as Harcourt Buildings. Thus Middle Temple Lane was enclosed by a line of buildings on both sides down to the river wall, and the Inns assumed the appearance they retained until the embanking of

<sup>1</sup> A.P. V, 72.

<sup>2</sup> Later Lord Keeper and Chancellor.

the Thames at a much later date opened fresh ground for further building operations.<sup>1</sup>

There were many sundials in the Temple at the close of the seventeenth century, some of which no doubt had replaced earlier dials destroyed in the devastating fires of the reign of Charles II. The evidence as to those in the Inner Temple comes chiefly from the accounts of the Inn and is rather vague. Shortly after the conflagration of 1666, two dials were erected at the end of the church for a sum of £4.<sup>2</sup> In 1695, a sum of £1 3s. was expended on a dial for the Privy Garden, which was probably the small brass dial described later in 1714 as fixed upon the wall of the little garden,<sup>3</sup> and in 1699, £7 was spent upon "the new Dyall," but there is no clue to where this was placed.<sup>4</sup> In the following year, £18 8s. 6d. was paid for scaffolding to put up the dial, etc., as appears by the record of disbursements in the Inn for 1699-1700. There seems also to have been a dial on the steps of the great garden upon the pedestal of which there was further expenditure in 1707.<sup>5</sup> Whether any of these dials were inscribed with mottoes does not appear. Not one of them now seems to be in existence.

In the case of the Middle Temple more care has been taken to preserve or renew the ancient sundials. Six still survive in the Inn; all, however, of later date than the fire of 1678. Here also the accounts of the Society are the chief source of information. In 1685 a dial was set up in Essex Court at a cost of £8 1s., and another in 1686, on the north side of Pump Court, which cost £6 5s.<sup>6</sup> In 1687 the modest expenditure of £1 1s. 6d. was incurred in "drawing" a dial on the east side of the cloisters opposite Lamb Buildings, and in 1695 Brick Court was also provided with a sundial, which, including several attendances to take delineations, cost £2 2s.<sup>7</sup> There was probably at this time a dial on that part of Essex Court which overlooked the Hall Court, and also one on Elm Court where the chambers faced Middle Temple Lane. An ancient oil

<sup>1</sup> Before that time, however, Harcourt Buildings and Paper Buildings had alike suffered from further conflagrations, after which both were rebuilt, the former in 1832, the latter in 1838. The brick extension of Paper Buildings southwards (No. 5) by Mr. Sidney Smirke, facetiously nicknamed "Blotting Paper Buildings," dates from 1848. The chambers at the top of the garden, and now known as Crown Office Row, were also rebuilt—staircases Nos. 1, 2, and 3 next the Inner Temple Hall in 1737, No. 7 in 1806, and Nos. 4, 5, and 6 in 1863-5.

<sup>2</sup> Gen. Acct. Bk. 1667-8.

<sup>3</sup> *Ibid.* (July 5th) and I.T. Miscellanea, 1714.

<sup>4</sup> Gen. Acct. Bk. (May 4th, 1699).

<sup>5</sup> *Ibid.* (November 5th, 1707)

<sup>6</sup> Treasurers' Accts. Bk. 184, 191.

<sup>7</sup> *Ibid.* 199, 258.

painting in the possession of the Inn shows a dial on the top floor of the Elm Court Buildings above the entrance from Middle Temple Lane.<sup>1</sup> As rebuilt in 1883, these last-mentioned chambers still bear a dial on the fifth story facing west, though it is now placed further down the Lane. The pedestal dial in the garden is of later date than the reign of Queen Anne. It was erected towards the close of 1719. The items of cost for this dial appear in the accounts for that year, £19 1s. 10*d.* for the dial and £6 2s. 6*d.* for the pedestal.<sup>2</sup> Of the sundials still to be seen in the Middle Temple, two are on buildings erected shortly after the fire of 1678, viz. the dial in Pump Court and the one on the back of No. 1, Essex Court, which faces the Hall. Three are on buildings reconstructed in recent years, viz. No. 5, Essex Court, No. 4, Brick Court, and Elm Court. These five dials carry mottoes as follows: Pump Court, "Shadows we are and like shadows depart"; No. 1, Essex Court, "Discite Justitiam Moniti"; Brick Court, "Time and Tide tarry for no man"; No. 5, Essex Court, "Vestigia nulla retrorsum"; and Elm Court, "Pereunt et imputantur." The pedestal dial in the garden also still exists but bears no motto.<sup>3</sup>

From a very early date the Inner Temple Society had possessed a library for the use of its members. Speaker Audley had been permitted to open a door into it from his chamber in the reign of Henry VIII; but the Benchers' Minutes throw no light on the books it contained. They were probably few in number and of a strictly legal and professional character. There is evidence that chains with padlocks were used to attach some of them to iron rods,<sup>4</sup> a precaution apparently neglected in early times at the Middle Temple.<sup>5</sup> In the reign of James I a new chamber was erected for the Library after which the original one is referred to as the Upper Library. That the collection of books was a very moderate one may be inferred from the circumstance that up to the reign of Queen Anne the keeping of them continued to be a supplemental duty of the Chief Butler.<sup>6</sup> If the Records of the Inn say little about the books, numerous references to the Library as a chamber or building show that it

<sup>1</sup> See also Pearce, *Inns of Court* (1855), 268.

<sup>2</sup> *Treasurers' Accts.* Bk. 433.

<sup>3</sup> From time to time new dates have been inscribed on some of these dials. Recently the original date has been wisely restored in the case of the Pump Court dial.

<sup>4</sup> *Acct.* Bk. I, 38 (1608/9).

<sup>5</sup> See *ante*, p. 125.

<sup>6</sup> *I.T.R.* III, Intro. xcii, iii.



was put to very varied uses. On July 8th, 1606, it was deemed necessary to stop the gentlemen of the House dining and supping there :

“in regard that it is mente to bee kepte sweete and clenly for exercizes of learninge and receyvinge of noble personages at the feastes in the Readinge tymes. But for supplye,” adds the record, “another table is to be sett in the hall when neede is at the discrecion of Mr. Treasurer.”<sup>1</sup>

Moots were argued there as well as in the Hall,<sup>2</sup> and at Christmas time it was latterly used even for gaming as appears by an order of December 27th, 1662, “That there be but one hazard table and that in the Upper Library only.”<sup>3</sup> Rebuilt by Sir Heneage Finch after the Great Fire of 1666, the Readers’ arms were there set up in 1670.<sup>4</sup> It again suffered disaster in the Middle Temple fire of 1678, when, as already narrated, it was blown up in an excess of zeal to prevent supposed danger to the Hall. Fortunately the books and Readers’ arms were first removed to safety.<sup>5</sup> It seems also to have been occasionally used for meetings of the Benchers in parliament, and its proximity to the Hall no doubt accounts for its having been a favourite place in which to receive distinguished guests.

As the Middle Temple Library was founded by the bequest of Robert Ashley, so that of the Inner Temple first attained real importance through the acquisition of a private collection made by a member of the Inn. William Petyt, whose services to the Society in their resistance to the City’s claim of jurisdiction over the Temple have already been noticed, died early in October, 1707, and on the 9th of that month was buried in the Temple Church.<sup>6</sup> Though originally a member of the Middle Temple, the gratitude of the Inner House had given him in 1671 his degree of the Utter Bar.<sup>7</sup> In November, 1687, he was there called to the Bench, and was elected Summer Reader in 1694 and Treasurer in 1701.<sup>8</sup> For many years keeper of the Records in the Tower of London, he had collected besides works on Law, History, and parliamentary procedure, many MSS. and copies

<sup>1</sup> A.P. II, 63.

<sup>2</sup> B.T.O. IV (November 18th, 1699).

<sup>3</sup> Christmas Accts. Bk. : order of December 27th, 1662 see also same Bk. 1667.

<sup>4</sup> B.T.O. I (November 25th and February 10th, 1670).

<sup>5</sup> See *ante*, p. 527, note 1

<sup>6</sup> I.T.R. III, 461 (Burial Register).

<sup>7</sup> A.P. IV, 41 ; see *ante*, p. 480.

<sup>8</sup> A.P. V, 8, 34, 66.

of documents of great historical interest. By his will he left each of the Temple Societies £50, which his Executors were directed to spend in the purchase of books.<sup>1</sup> His own books, including many on Law and History, and his MSS., which had cost him many years' pains and study, and stood him in much charge in collecting, he bequeathed to Trustees in trust and to the intent and purpose that they should use their utmost endeavours for preserving and keeping them safe and entire for public use in such place or places as they should from time to time appoint, and not suffer or permit them to be embezzled or sold. He also left a sum of £150 to buy or build a place in which to preserve and keep them, and for making it convenient for that purpose.

During his lifetime, Petyt had generously allowed students of the Law free access to his collection at the Tower, with liberty to search his records and make notes or abstracts as they pleased *gratis*, and certain members of the Inner Temple Society petitioned the Benchers of the Inn to invite the Trustees to discharge their duty under the will by depositing the whole collection with them. This the Benchers did, having recently added a "very spacious and handsome room" to their Library, affording accommodation well suited for housing the bequest. The Chief Executor and Trustee was the Testator's brother, Sylvester Petyt, Principal of Barnard's Inn, and through him the matter was arranged. The books and MSS. were delivered to the Society, and the £150 left to provide a home for them paid to the Treasurer. In accordance with the trust the Testator had created the Benchers enacted as follows :

"That when the said books shall be placed in the said Library the same shall be preserved and kept safe and intire for publick use to all intents and purposes according to the true intent and meaning of the said will." <sup>2</sup>

In June of the same year the Benchers proceeded to the election of a Librarian. Their choice fell on Samuel Carter. His remuneration was fixed at £20 per annum, payable half-yearly,<sup>3</sup> and he was required to give two securities in the penalty of £1000 for the true performance of his office.<sup>4</sup> His hours of attendance were fixed by a Bench Table Order of October 26th,

<sup>1</sup> See recital of this will in A.P. V, 94-96.

<sup>3</sup> B.T.O. IV (June 4th, 1709).

<sup>2</sup> A.P. V, 94-96.

<sup>4</sup> *Ibid.* (October 26th, 1709).

1709, as follows: Lady Day to Michaelmas, 9 to 12 in the morning and 3 to 6 in the afternoon; Michaelmas to Lady Day, 10 to 12 in the morning and 3 to 5 in the afternoon.<sup>1</sup>

"This accession of works of general interest in 1708," observes Mr. Inderwick, "together with the means of harbouring them in a suitable place thus formed the nucleus if not the foundation of the valuable library which our Society now possesses."<sup>2</sup>

An interesting portrait of William Petyt (half length), wearing the peruke of the period, is in the possession of the Society.

Dr. Ball, who had held the office of Master of the Temple since February, 1661, died early in April, 1684, at the ripe age of eighty-six, and was laid to rest in the new vestry which then stood on the south side of the church, and where his two wives and four sons who had predeceased him were buried.<sup>3</sup> His successor was the Rev. William Sherlock, D.D., a Prebendary of St. Paul's and a noted preacher in his day.<sup>4</sup> Though a resolute opponent of the Romanizing policy of James II (whose declaration of Indulgence he declined to read in the Temple Church), he was none the less a strenuous defender of the divine right of Kings, and could not reconcile himself at the Revolution to taking the oath of allegiance to William and Mary. As a non-juror he was in consequence deprived in August, 1689, of his offices and emoluments. No one, however, was appointed to succeed him in the Mastership, and having a year later elected to take the oaths to the new Rulers as King and Queen *de facto*, he was restored to his places. He thus only suffered the inconvenience of temporary suspension,<sup>5</sup> during which he published his best known writing, *A Practical Discourse concerning Death*. This work had a remarkable and long-sustained success, a twenty-eighth edition appearing in 1767. In the dedication he prefixed to the book "to the worshipful the Masters of the Bench and the rest of the Members of the two honourable Societies of the Temple," he thus referred to the uncertainty

<sup>1</sup> B.T.O. IV (October 26th, 1709).

<sup>2</sup> I.T.R. III, Intro. xcii.

<sup>3</sup> Burial Register, I.T.R. III, 454, also 447, 448, and 452, 453.

<sup>4</sup> He was to receive the same remuneration from the Societies as Dr. Ball A.P. IV, 138, June 15th, 1684.

<sup>5</sup> The Societies repaid to Dr. Sherlock the expense he had incurred in supplying other preachers during the period of his deprivation: B.T.O. II (November 23rd, 1690).

of his then position as a non-juror and acknowledged their courteous treatment of him :

“ the only reason of this Dedication is to make this public and thankful acknowledgment (before I am forced from you if I must be so unhappy) of your great respects and many singular favours to me ; which have been always so free and generous, that they never gave me time, nor left any Room for me to ask ; especially that obliging Welcome you gave me at my first Coming ; I mean your Present of a House which besides the Conveniences and Pleasure of a delightful Habitation, has afforded me that which I value much more the frequent opportunities of your Conversation.” <sup>1</sup>

The allusion to the present of a house in this Epistle Dedicatory is explained by the circumstance that the two Societies jointly undertook in June, 1684, to bear for Dr. Sherlock the charge of the annual rent of £40 payable to the representatives of Dr. Ball for the Master's House which that gentleman had rebuilt, as already mentioned, after the Great Fire of 1666.<sup>2</sup>

When Dr. Sherlock was appointed to the office, the Master was assisted in his duties by a Lecturer and a Curate : each Society contributing £165 yearly to their salaries, the payments to each, as shown by the accounts of the respective Inns, being as follows : To the Master the Inner Temple paid yearly £100, to the Lecturer £50, and to the Curate £15. From the Middle Temple the Curate received a like remuneration, but the Lecturer £80 and the Master £70.<sup>3</sup> After 1692 the payments to the Lecturer cease in both Societies, the afternoon preaching being supplied instead by special preachers, who received £2 for each sermon they delivered. This change does not seem, however, to have affected the scale of the payments to the Master, which continue to appear as sums of £100 and £70 respectively. In 1691 Dr. Sherlock was appointed Dean of St. Paul's,<sup>4</sup> but continued to hold his office of Master of the Temple until 1704, when he resigned in favour of his son, the Rev. Thomas Sherlock,<sup>5</sup> whose powers as a preacher were not less remarkable than those

<sup>1</sup> Epistle Dedicatory (Edit. 1767).

<sup>2</sup> A.P. IV, 138 ; see *ante*, p. 512.

<sup>3</sup> B.T.O. I, 73 ; Gen. Acct. Bk. 1688-9 ; Treasurers' Accts. Bk. (M.T.), *passim*, 166-324.

<sup>4</sup> I.T.R. III, Intro. li.

<sup>5</sup> In addition to many other preferments this gentleman was Master of the Temple for fifty years ; Bishop of Bangor in 1728 ; of Salisbury, 1734 ; and of London, 1748 : see D.N.B. LII, 93.



of his father. Dr. Sherlock's distinction as a pulpit orator shed a lustre on the Mastership, and during the twenty years of his tenure of the office, his relations with the Inns seem to have been of a very cordial character. There is evidence that the Benchers were not unmindful of his creature comforts. On June 29th, 1688, the Treasurer of the Middle Temple was directed to present the Master of the Temple with a "hoggeshead of Clarrett" as a testimony of respect;<sup>1</sup> while in the following November, the Inner Temple passed a Bench Table Order for a gift to be made to Dr. Sherlock of a like supply of claret and a quarter cask of canary. For this present they substituted two days later a pair of silver candlesticks, engraven with the arms of the Inn, and to be of the value of from £18 to £20.<sup>2</sup> The change was no doubt made at the Master's request that he might have a more permanent token of their regard.

Notwithstanding the heavy expenditure the Societies had incurred in repairing the Temple Church at the close of the reign of Charles II, further work of this nature had soon to be undertaken. In 1694 the exterior walls at the west end and on the south side of the building were found to require refacing with fresh stone. In carrying out this work the Societies seem to have expended between them upwards of £400.<sup>3</sup> The following inscription on the new masonry (removed during later repairs) recorded the incident: "*Vetustate consumptum: Impensis utriusque Societatis Restitutum A<sup>o</sup> 1695. Nico. Courtney, Rogero Gillingham, Arm<sup>is</sup> Thesauriis.*"<sup>4</sup> It was during the execution of these repairs that the stone carrying the original inscription which recorded the consecration of the Round church in 1185 by the Lord Heraclius, Patriarch of the Church of the Holy Resurrection, was unhappily destroyed by workmen.<sup>5</sup>

At this time there was some conference between the two Houses as to beautifying the entrance to the church.<sup>6</sup> What precisely this meant remains in doubt. It probably had reference to the small shops which were crowded against the south side of the building. Some of these, removed for a time during the great fires of the reign of Charles II, had been again erected,

<sup>1</sup> E. 365. This gift cost £14: see Treasurers' Accts. Bk. 212.

<sup>2</sup> B.T.O. II (November 10th, 1688). Those actually presented to the Master weighed 64 oz., and at 6s. 2d. to the oz., with engraving (5s. 4d.), cost exactly £20: Gen. Acct. Bk. 1688-9.

<sup>3</sup> I.T.R. III, Intro. lxxxv.

<sup>4</sup> H. 425, and New View of London (1708), 563. In I.T.R. III lxxxv, the date is omitted and the M.T. Treasurer's name wrongly given as Bellingham.

<sup>5</sup> *Ante*, p. 11.

<sup>6</sup> E. 415, 427.

and there is evidence that the Benchers of the Inner Temple were anxious to have all of them cleared away. This, however, was not done until many years after the time now reached. Ten years later, on June 26th, 1704, a committee was appointed by the Inner Temple to confer with the Middle Temple Benchers in regard to further repairs to the church,<sup>1</sup> and the result of their joint deliberations was a more formidable outlay by the Societies in 1706. Much work was done on the exterior at the east end and south side, including a new battlement and buttresses, while the fabric of the roof also received attention. Further, the interior was redecorated—recourse again being had to whitewash<sup>2</sup>—and the monumental effigies with the ironwork surrounding them were once more painted. At the same time the pillars of the Round were most incongruously wainscoted to the height of six feet. Work was also carried out on the Master's house. The Inner Temple Accounts show that the half share of these repairs cost the Inn upwards of £600.<sup>3</sup> The yearly accounts afford evidence also of the purchase of service and other books for the church.<sup>4</sup> One of these items under the year 1688/9 is for ten prayer-books for a blessing on his Majesty's Forces by sea and land against the French King.<sup>5</sup> Entries now regularly appear in the Accounts for Holly, Ivy, Bays, and Rosemary for the decoration of the interior of the church at Christmas.<sup>6</sup> In October, 1700, the two Societies expended between them £35 3s. on a velvet carpet to lay in front of the Communion Table.<sup>7</sup> After 1691 an item of constant recurrence is the fee paid to special preachers when the office of Lecturer was in abeyance. Thus, to cite an example, there occurs on November 19th, 1693, "for preaching 29 severall sermons in the whole yeare £58."<sup>8</sup> Items of a like nature also appear in the accounts of the Middle Temple.<sup>9</sup> The preachers thus imported were often notable figures in the Church of their day, such as the Bishops of Rochester, Oxford, and Exeter; the Archbishop of York, and Francis Atterbury, later successively Dean of Carlisle, Christ Church, and Westminster, and Bishop

<sup>1</sup> B.T.O. IV.

<sup>2</sup> "The church was wholly white washed gilt and painted within &c": New View of London, II, 563.

<sup>3</sup> Gen. Acct. Bk. 1706-7; I.T.R. III, Intro. lxxxvi.

<sup>4</sup> M.T. Cal. 186; I.T.R. III, 337, 385.

<sup>5</sup> Gen. Acct. Bk. 1688-9.

<sup>6</sup> I.T.R. III, 271, 286, 320, 363, 378.

<sup>7</sup> *Ibid.* 357; Treasurers' Accts. Bk. 299.

<sup>8</sup> Gen. Acct. Bk. 1692-3.

<sup>9</sup> Treasurers' Accts. Bk. 241, 257, 275, 297.

of Rochester, the most popular preacher of the times, and eventually exiled for his pronounced Jacobite sympathies.<sup>1</sup>

The accounts of the Inner Temple for the year 1689-90 include an item for a "smooth filed hook and staples" for Mr. Speaker's "Mase" in the church.<sup>2</sup> This is the mace which is still used in the House of Commons. It dates from the Restoration, when a new one was made in place of the "bauble" Cromwell had ordered his soldiers to remove.<sup>3</sup> The entry is of interest as showing that this symbol of the Commons House of Parliament accompanied the Speaker, at this time, when he attended church at the Temple.<sup>4</sup> The Speaker for whom this hook and staples were provided was Sir Thomas Littleton of the Inner House. He held the office from December, 1698, till the dissolution in 1700. His four immediate successors were also of the Temple—three being from the Middle and one from the Inner House. The first of these was Robert Harley of the Middle Temple, later famous as the Tory Minister of Queen Anne, and dignified with the double Earldom of Oxford and Mortimer.

The number of Speakers provided for the House of Commons by the two Temple Societies is remarkable. As the Speaker was generally a lawyer the other Inns of Court were also well represented on this roll of honour, especially Lincoln's Inn. From the commencement of the reign of Henry VII till the close of that of Queen Anne, 65 gentlemen occupied the Speaker's chair. Of these 56 are known to have been members of the Inns of Court. The Temple contributed 31, 19 being of the Middle Temple<sup>5</sup> and 12 of the Inner House; while 15 came from Lincoln's Inn and 10 from Gray's Inn. The longest continuous tenure of the office was enjoyed by Sir Edward Turner of the Middle Temple, who, elected Speaker in 1661, held the chair till May, 1671, when he retired on his appointment as Chief Baron

<sup>1</sup> D.N.B. II, 233-8.

<sup>2</sup> Gen. Acct. Bk. October 24th, 1690.

<sup>3</sup> Dasent, *Speakers of the House of Commons* (1911), xxxix, also 215.

<sup>4</sup> "The Speakers at that time were always attended by the Mace even during adjournments of the House and being Lawyers forbore to practise. In 1668 the King having adjourned the Parliament for a longer time than usual (they did not meet for 18 months) Sir Edward [Turner of the M.T.] was naturally anxious to be freed from that formality and interference with his professional pursuits but on his application to be released from it the Commons declared he ought to be attended by the Mace as in times of shorter adjournments": Foss, VII, 178.

<sup>5</sup> This number includes William Say, who acted as Speaker of the Long Parliament for ten days in January, 1659-60, during the illness of Speaker Lenthall.

of the Exchequer.<sup>1</sup> No doubt the prestige of the office of Speaker has increased in modern times in proportion as the House of Commons has succeeded in appropriating to itself the dominant power in the State. No one could imagine the Sovereign now addressing the Commons of Great Britain as Queen Elizabeth addressed those of her time, when she rated them like presumptuous schoolboys for venturing to humbly express an opinion on a matter of foreign policy. But it is surprising to find in what light estimation the office was held at the Middle Temple. Of the 19 members of the Society who had occupied the Speaker's chair in the period above mentioned, the arms of only four are blazoned in the Hall, and any memorial of these no doubt would have been wanting likewise had they not also held Judicial Offices. The four are Sir James Dyer and Sir John Popham, each subsequently Chief Justice, Sir Edward Phelips, Master of the Rolls, and Sir Edward Turner, Chief Baron. Two more were formerly also thus commemorated, Sir Robert Brooke, Chief Justice of the Common Pleas, and Sir Robert Bell, Chief Baron. But these coats for reasons unknown have been removed.<sup>2</sup>

Singularly little information is available regarding the forensic robes worn by members of the Bar under the Serjeant's degree during the sixteenth and seventeenth centuries. This is the more surprising in view of the elaborate details which are known of the official dress of the Serjeants. It seems to be generally accepted that the modern silk and stuff gowns date from the close of the seventeenth century. They have been explained as mourning robes assumed for the funeral of Queen Mary II in February, 1694, and never subsequently laid aside.<sup>3</sup> This funeral was conducted with extraordinary solemnity and universal manifestations of grief.

"Never," writes Evelyn,<sup>4</sup> "was so universal a mourning; all the Parliament men had cloaks given them and 400 poore women; all the streetes hung, and the middle of the streete

<sup>1</sup> For a List of Speakers of the House of Commons who are known to have been members of the Temple Societies during the Tudor and Stuart periods, see *post*, Appendix III.

<sup>2</sup> In modern times the arms of some later Speakers have been inserted in windows in the Hall; e.g. Arthur Onslow, Sir Fletcher Norton, and Sir John Cust. The same Speakers and Charles Abbot are also now commemorated in the Library.

<sup>3</sup> See Bench Bk. (Ingpen), 16, 17: Luttrell, however, says from the death of King Charles.

<sup>4</sup> Diary, March 5th, 1694/5.



boarded and covered with black cloth. There were all the Nobility, Mayor, Aldermen, Judges, &c.”

Whether or not this is the origin of the modern stuff gown, it is clear from what Sir Henry Chauncy, Recorder of Hertford and a Benchler and Treasurer (1685) of the Middle Temple, has written,<sup>1</sup> that before this time the gown worn by members of the Utter Bar was of a less severe character and that this earlier robe surviving the troubles of the Civil War, was still in use after the Restoration. What Sir Henry states upon this subject must have been matter within his own knowledge (as he was in practice when the gowns of which he speaks were worn) and may therefore be accepted as trustworthy. The passage occurs in his *History of the Antiquities of Hertfordshire*. Utter Baristers, he says, were formerly

“adorned with a noble Robe faced down before, guarded with two Welts of Velvet on the Sleeves extending from the Shoulder to the Elbow and another on the Bordar of it like the Gards which the Romans used to distinguish the different Degrees of Men among them. These Robes were great Ornaments which the Reverend Judges maintained in the Height of the late Rebellion, to the Glory of the Profession, when others laid aside their proper Habit through Fear of the Souldiery, or to please the Faction of that Age; but 'tis great Pity and it seems very ominous that these learned Men should now decline this noble Robe and wear a scandalous Livery which resembles those that Bearers usually wear at Funerals as though the Law lay adying.”

Shocked as he thus appears to have been by this departure from the practice of former times, he was not without some expectation that the ancient use might be restored, for he proceeds:

“However 'tis greatly hoped that that worthy Patron of the Law Sir John Holt the present Lord Chief Justice<sup>2</sup> will thoroughly reform this ill Practice, and that none of the reverend

<sup>1</sup> Sir Henry Chauncy's record is as follows: entered M.T., 1649; called to the Bar, 1656; Benchler, 1675; Recorder, 1680; Reader and Knighted, 1681; Treasurer, 1685; died, 1719.

<sup>2</sup> C.J. 1689-1710.

Sages of the Law will suffer those Gentlemen to share in the Profit and Advantage of that Profession which they scandalize by divesting it of that ancient Robe and introducing an ignominious Habit in the Room of it." <sup>1</sup>

These hopes, thus quaintly expressed, were destined, however, to disappointment. The ignominious habit still remains.<sup>2</sup>

The Barrister's wig, the most distinctive feature of the modern Bar dress, was as yet unknown and did not come into use as now worn until a much later date. The Serjeants had their own special head-dress which the Judges at Westminster, as Serjeants, also wore, but other members of the profession, whether on or off the Bench, seem to have appeared in Court in a peruke,<sup>3</sup> or wearing their own hair as they pleased, according to the fashion of the times. This is curiously illustrated by the account which Lady Sarah Cowper has left of a condition imposed on her father, William Cowper, K.C., of the Middle Temple, by Queen Anne when she committed the Great Seal to his charge as Lord Keeper in 1705, at the early age of forty-one.

"He looked very young and wearing his own hair made him appear yet more so; which the Queen observing obliged him to cut it off, telling him the world would say she had given the Seals to a boy." <sup>4</sup>

The Queen's evident intention being that having shorn his own locks he should wear a peruke.

The ancient amity between the Inner Temple Society and the gentlemen of Gray's Inn has been referred to on several occasions. It still survived at the beginning of the eighteenth century, and in final illustration of this interesting friendship, the origin of which seems lost in the mists of antiquity, may be quoted the following contemporary record of an entertainment given at the Inner Temple to the Benchers of Gray's Inn during Hilary Term, 1700 :

<sup>1</sup> *Antiquities of Hertfordshire* (1700), Edit. 1826, II, 432, 433.

<sup>2</sup> In this connection note the following entry in the *Brief Relation of Narcissus Luttrell*: "Sat. Oct. 30<sup>th</sup> 1697 Yesterday the Cheif Justice Holt ordered all baristers to appear next Term in their proper gowns and not in mourning ones as they have done since the death of King Charles; otherwise will not hear them; which will cost them £15 a man" (IV, 299). The figure stated certainly points to a much more elaborate robe than the gown worn to-day.

<sup>3</sup> Imported by Charles II from France at the Restoration.

<sup>4</sup> Campbell, *Lives of the Chancellors*, IV, 294.

"Ye manner of ye Entertainment of ye Masters of ye Bench of Grays Inn by ye Masters of ye Bench of this Society in Hillary Terme 1700.

"On fryday ye 31 day of January 1700 ye under Treasurer by order of ye Treasurer and Masters of ye Bench wayted on ye Treasurer of Grays Inn and invited him and ye Masters of ye Bench of yt Society to supper here on fryday ye 7<sup>th</sup> feby att 6 in ye afternoon.

"On fryday ye 7<sup>th</sup> feby before 6 in ye Evening Severall of ye Masters of ye Bench came into ye Hall and sent ye head Porter to ye Gate next ffilet street with 3 or 4 flamboys to light ye Masters of Grays Inn down to ye Hall. They came about 7 a clock and ye Treasurer and Masters of this Society having notice of their comeing mett them att ye foot of ye Hall steps next ye Cloysters and conducted them upp into ye Hall where they were entertained with Canary for about half an hour till ye supper was served upp in ye Library And then were treated with a very hansome supper and plenty of burgundy wine and staid till about 12 a clock yt night. Ye Porter prepared Coaches for ye Masters of Grays Inn and brought them to ye Hall steps. They gave 2 Guineas to ye Steward to be distributed among ye servants." <sup>1</sup>

That this demonstration of the ancient friendship between the two Houses was much appreciated by the Benchers of Gray's Inn, appears by an order they made on the following 27th of June to reciprocate the hospitality of the Inner Temple :

"Ordered that whereas the honorable Society of the Inner Temple in Hillary Terme last did invite and splendidly entertaine the Bench of this Society for the continuacon of an antient amity and union of the said Societys and according to an antient custome heretofore used : Ordered that Mr. Treasurer doe send an invitacon by a Barrester of this house to the Treasurer and Bench of the Inner Temple to supp here on fryday next being the fowerth of July and that the Treasurer make such provision and entertainment as shall be fitt for them to receive and for the Society to give." <sup>2</sup>

<sup>1</sup> I.T. Miscellanea, III (1700-25).

<sup>2</sup> Pension Bk. II, 133, 134.

On July 4th this entertainment was "deferred to the end of next terme," when, however, it seems to have been very handsomely given.<sup>1</sup>

Though entertainments in the Inns seem to have been conducted on a less lavish scale after the Revolution, and Readers' Feasts in the old style were a thing of the past, the Grand days were still observed and Judges and Serjeants entertained on these occasions.<sup>2</sup> Plays, which during the reign of Charles II had been so prominent a feature of these festivities, continued to be performed in the Halls of both Houses, especially on November 1st and February 2nd. As before the fullest information regarding this comes from the Inner Temple accounts, where the disbursements for such shews (still £20 per play) are regularly given, and in many cases the names of the pieces which were produced. Some of these were old favourites, such as the Spanish Friar, acted on February 2nd, 1697, and the Committee (November 1st, 1704).<sup>3</sup> The hire of a trumpet, for which 10s. was paid, also appears in these Accounts for the years 1701 and 1702.<sup>4</sup> While in 1709 the entertainment on November 1st took the form of singing, which proved more expensive than the usual play, "Nicoleni" being paid £21 10s. for the occasion.<sup>5</sup>

In all cases of theatrical entertainment the performers now seem to have been professional players. The once popular Masque has gone out of fashion, and nothing is heard of those interludes acted by gentlemen of the Houses which were so much in vogue in the great days of Elizabeth. William III was a very different Sovereign from the pleasure-loving Charles II. His mind was set on more serious things and occupied with the problems of war and foreign policy. The old intimacy between the Inns of Court and the royal circle at Whitehall is on the wane. King William is said, on one occasion, to have been entertained at the Temple. The records of neither Society, however, throw any light on this. The story, for what it is worth, comes from Goldsmith's *Life of Beau Nash*, who at the time of the alleged incident was a very junior member of the Inner House. It represents the taciturn Monarch receiving the homage of the Lawyers in the great Hall of the Middle Temple during the year 1693 at an entertainment, the direction of which

<sup>1</sup> Pension Bk. II., 396.

<sup>2</sup> B.T.O. IV (January 25th, 1702, October 25th, 1704).

<sup>3</sup> I.T.R. III, 342, 385, see also 238.

<sup>4</sup> *Ibid.* 370, 378.

<sup>5</sup> *Ibid.* 418.



was confided to Richard Nash, who was of the other House. The King, according to Goldsmith, was so well satisfied with the performance provided and the abilities displayed by the future "King of Bath," that he offered to knight him, an honour which had been before conferred on students of the Law who had played a leading rôle in the entertainment of royalty.

"This, however," proceeds the narrative, "he thought proper to refuse which in a person of his disposition seems strange. 'Please your Majesty,' he replied when the offer was made to him, 'if you intend to make me a knight, I wish it may be one of your poor Knights of Windsor and then I shall have a fortune at least able to support my title.' Yet we do not find that the King took the hint of increasing his fortune, perhaps he could not; he had at that time numbers to oblige and he never cared to give money without important services."<sup>1</sup>

As Goldsmith makes the mistake of describing Nash as a member of the Middle Temple the incident, if it took place at all, seems more likely to have happened in the Hall of the Inner House, the Inn to which Nash belonged, though even there, considering his junior standing in the Society at the date alleged, his control of the proceedings appears sufficiently improbable.

One other occasion of Temple festivity remains to be noticed. The Christmas of 1697 was kept at the Inner Temple with some revival of the old ceremonial. A Comptroller was set up and treated with all due respect. Probably there were other officers likewise elected for the occasion. Evelyn, who, notwithstanding his unfriendly comments, was a frequent visitor at the Temple, was present in the church on December 12th of this year, and makes the following observation: "It was very long before the service began, staying for the Comptroler of the Inner Temple where was to be kept a riotous and revelling Christmas according to custom." The revelling, which seems to have continued till January 21st, included that night a masquerade at which no less a person than the Czar of Muscovy (to be known in history as Peter the Great) attended, incognito in a butcher's habit. His Majesty was so pleased with the performance that he returned again to the Temple on February 26th, and supped at Mr. Morley's chambers, where was afterwards another masquerade.<sup>2</sup>

<sup>1</sup> Goldsmith's Works (1837), III, 259.

<sup>2</sup> Luttrell, Brief Relation, IV, 335, 349. This year at the Middle Temple the keeping of Christmas had been prohibited: E 446.

Bonfires continued to be a favourite form of diversion in both Inns—at least among the younger members. Here, however, the Templars only followed the prevailing fashion of the times, all events regarded as matters of public congratulation being celebrated in this way. Again the best information comes from the Accounts of the Inner Temple. Some of the particulars point to a curious catholicity of sentiment. In the critical year 1688, which cost James II his throne, the students of the Inner Temple Society celebrated in this way not only the birth in June of the Prince of Wales (later known as the Old Pretender)<sup>1</sup> and the return of James after his flight to Rochester, but also the arrival in England of the Prince of Orange, of his consort Princess Mary, and their subsequent proclamation as King and Queen.<sup>2</sup>

The records afford little information as to where these bonfires were made, probably in Fleet Street opposite the Temple Gates.<sup>3</sup> Considering the devastation wrought in London and in particular in the Temple by recent fires, it is remarkable this manner of jubilation was so freely allowed.

The cultivation and appearance of the Temple Gardens no doubt varied considerably from time to time. In an engraving of the Temple Inns, as they appeared in the reign of Charles II, many trees are shown planted in rows with great regularity, alike in the upper and lower areas of the King's Bench Walks and in the gardens on both sides of Middle Temple Lane. Little information is available in respect of the gardens of the Middle Temple Society, and the details which follow come from the Accounts of the Inner House, but probably similar trees were in favour with both Societies. Elms, Chestnuts, and Limes are much in evidence.<sup>4</sup> There is likewise mention of standard Laurels, Junipers, Hollies, and Yews. Fruit trees also occur—Plum, Peach, Nectron, Cherry and Orange trees.<sup>5</sup> The Orange trees were removed for a portion of the year to Islington.<sup>6</sup> Apart from the Walks the Inner Temple seems to have had three gardens, the Great garden, the Benchers' garden, and the Privy

<sup>1</sup> Gen. Acct. Bk. (1687–8).

<sup>2</sup> *Ibid.*

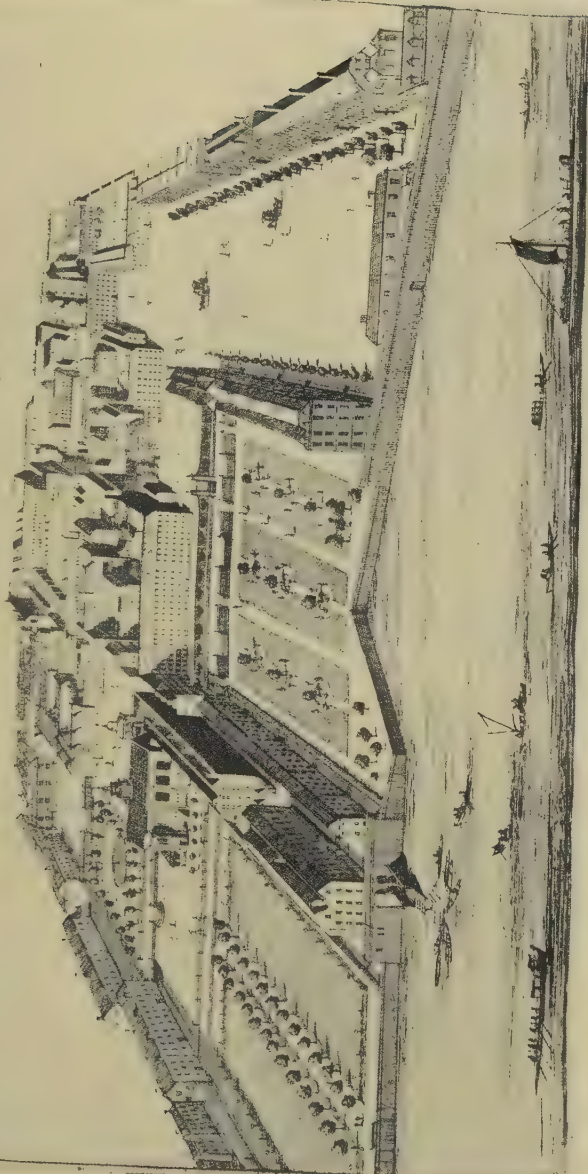
<sup>3</sup> One bonfire is stated to have been at the Inner Temple Gate: Gen. Acct. Bk. (September 9th, 1683). During the year 1705–6 as much as £12 16s. 6d. was spent at the Middle Temple on bonfires: see Treasurers' Accounts Bk. 338: the year of Marlborough's victory at Ramillies (May, 1706).

<sup>4</sup> Gen. Acct. Bk. 1682–3, 1698–9, 1702–3.

<sup>5</sup> *Ibid.* 1690–1, 1694–5, 1696–7, 1697–8.

<sup>6</sup> *Ibid.* 1697–8.

The Temple



VIEW OF THE TEMPLE FROM THE THAMES, 1720.





garden. The Benchers' garden had a fountain in it with a lion's face and a copper scallop shell into which the water fell.<sup>1</sup> The Peach trees were in the Privy garden, which Mr. Inderwick locates where the Alienation Office garden had formerly been, *i.e.* in the open space behind what is now No. 3, North King's Bench Walk.<sup>2</sup> Cockle-shells were in favour for dressing the garden walks. In 1698 the Inn purchased nineteen sacks of these shells for the Benchers' garden, and they were also used in the Privy garden.<sup>3</sup> But for the great Walk gravel was employed, of which no less than 1225 tons were purchased in 1690 at a cost of £180.<sup>4</sup> It was no doubt at this time that the trees here were cut down and the wide space opposite Paper Buildings reduced to the arid waste of gravel shown in the later drawing engraved in Strype's edition of Stow's Survey. Nor was the cultivation of Flowers neglected. The accounts for the year 1702-3 show a purchase of 200 "junquiles," 200 tulips, 100 yellow Dutch Crocuses, and 12 striped "fillaryes," which may mean fritillaries. It is more difficult to appreciate what is meant by 50 "Armathagalum" also acquired in this year. The gardener of the Inner Temple at the close of the seventeenth century received an annual salary of £30. At the Middle Temple, where the garden ground was much less extensive, the gardener prior to October, 1691, was paid £16 per annum. In that month, however, for his further encouragement to look well after the garden his remuneration was raised to £18 10s. yearly.<sup>5</sup>

Among the flowering plants it is surprising to find no mention of roses. For though the well-known scene in the second Act of the first Part of the tragedy of King Henry VI, in which the poet pictures the partisans of York and Lancaster plucking in the Temple Gardens the white and red roses which became the distinctive emblems of the rival Houses, is not known to have any historical foundation, it would at least, were other proof lacking, be *prima facie* evidence that in Shakespeare's day this Queen of flowers lent her beauty and fragrance to the ancient home of the Templars. But in fact other proof is not lacking, for the Accounts of the Inner Temple for the year 1608-9 include a sum paid to the gardener for wire "to naile up the Rose trees in the garden."<sup>6</sup> By the close of the century, however, rose cultivation seems to have ceased in the Temple unless some

<sup>1</sup> See Gen. Acct. Bk. 1699-1700.

<sup>2</sup> *Ibid.* 1694-5, I.T.R. III, Intro. lxxix.

<sup>3</sup> Gen. Acct. Bk. 1694-5, 1697-8.

<sup>5</sup> E. 385 (October 23rd).

<sup>4</sup> *Ibid.* 1689-90.

<sup>6</sup> Gen. Acct. Bk. I, 39.

form of rose is indicated by the mysterious unexplained term "Armathagalum."<sup>1</sup>

After the Restoration, the Benchers of both Inns for the first time decorated their Halls with royal portraits. The Middle Temple Society seem to have taken the lead in this matter by acquiring, on October 22nd, 1683, a large picture of King Charles I in martial attire and mounted upon a white horse, while a year later on November 15th, 1684, they also purchased a portrait of his son the Duke of York (soon to be known as James II) wearing the robes of a Knight of the Garter. The first of these, including £10 for the frame, cost the Inn £40; for the second £10 was paid and £8 for the frame.<sup>2</sup> The next acquisition was a full-length portrait of Charles II in his Coronation robes. The date when this picture became the property of the Society is less certain. The first reference to it occurs in the Accounts under the date October 20th, 1699, when an item is charged "for cleaning and repairing the three Kings pictures."<sup>3</sup> The circumstance that it required cleaning suggests it was not then a recent acquisition. This portrait of Charles II is attributed to Sir Godfrey Kneller. A drawing by William Emmett of the interior of the Middle Temple Hall in June, 1702, an engraving from which is in the possession of the Society, shows the above-mentioned three pictures hung above the Bench Table at the west end of the Hall, that of King Charles I being in the centre. By an order of parliament made after the accession of Queen Anne, it was referred to Mr. Treasurer on November 27th, 1702, "to sett up the Queen's picture at the West end of the Hall over the Bench Table and to have it drawne by Mr. Dalle (*sic*) unles Mr. Treasurer thinks fitt to make use of another hand."<sup>4</sup> This portrait appears in the Accounts a year later and cost with the frame £53 17s. 6d.<sup>5</sup> The painter who executed it was not, however, the artist named in the reference, but Thomas Murray, much employed by the Royal Family and Nobility and acknowledged to be one of the most eminent painters of his day. As his name imports, Murray was a Scotsman. He was a pupil of John Riley (Court painter to William and Mary) esteemed by Horace Walpole "one of our best native painters."<sup>6</sup> His work has been criticized on the ground

<sup>1</sup> It has been suggested this word should be "Ornithogalum," *Star of Bethlehem*: *New Statesman*, 30th August, 1924.

<sup>2</sup> Total for these pictures, £58, appears in *Treasurers' Accts. Bk.* 176.

<sup>3</sup> *Treasurers' Accts. Bk.* 291; *M.T. Cal.* 188.

<sup>4</sup> *E.* 500.

<sup>5</sup> *Treasurers' Accts. Bk.* 319; *M.T. Cal.* 190.

<sup>6</sup> *Lord Orford's Works*, III, 372; *D.N.B.* XLVIII, 307.

that while painting the faces of his subjects with fine feeling and fidelity, he left the rest of his pictures to be completed by inferior hands. This, however, did not interfere with his great popularity and his brush brought him wealth. Among the many pictures attributed to him may be mentioned another of Queen Anne for the Town Hall of Stratford-on-Avon, portraits of William and Mary for the Fishmongers' Hall, one of Sir Hans Sloane in the Royal College of Physicians, and one of Henry St. John, the celebrated Viscount Bolingbroke. The above-mentioned picture of James II as Duke of York is thought to be also from his hand.<sup>1</sup> The portrait of Queen Anne in the Middle Temple Hall represents her holding the symbols of sovereignty, the sceptre in her right hand and the orb in her left. One other picture by the same artist must be noticed here, the portrait acquired by the Society of King William III. It was apparently painted at a much later date than the picture of Queen Anne, for the entry regarding it in the Treasurers' Accounts occurs under the year 1725, "to Mr. Murray for King William's Picture £31 10/-"<sup>2</sup>

All the five pictures thus acquired by the Society may still be seen at the west end of the Middle Temple Hall. The portrait of King Charles I, referred to in the Accounts of the Inn as "the great picture,"<sup>3</sup> still occupies the central space. As stated the King is on horseback in armour, with head uncovered, and wearing across his breast the light blue (as it then was) ribbon of the Garter. The royal helmet is carried by an Equerry, who stands in the foreground of the picture on the King's left hand. This figure is believed to represent Monsieur de St. Antoine, a Knight of Malta, accounted the most accomplished horseman of his day. At one time Equerry to the King of France, he was sent with a gift of horses to the English Court, where he remained in the royal service.<sup>4</sup> Though clearly after the manner of Vandyke nothing is known of the history of the picture before it became the property of the Inn. It is, therefore, uncertain whether it came from the studio of that great Master, or is a clever imitation of his style by some other hand. The suggestion has been made that it is a copy or replica of a picture at Windsor, and the work of Henry Stone, who died in 1653.<sup>5</sup> It seems to have undergone considerable repair in 1704, for on

<sup>1</sup> Granger, II, 241, note; D.N.B. XXXIX, 405.

<sup>2</sup> Treasurers' Accounts Bk. 486.

<sup>3</sup> M.T. Cal. 181.

<sup>4</sup> Granger, Biog. Hist. II, 241, note.

<sup>5</sup> Worsley's Bk. (Ingpen), 58, note.

May 4th of that year, £7 10s. was paid by the Inn for "new lynning, mending, repairing varnishing picture on horseback, making new frame and mending places broken through same."<sup>1</sup> It is said to have been engraved by Bernard Baron.<sup>2</sup>

Prior to the reign of James II, the only pictures in the Inner Temple Hall seem to have been the portraits of two eminent Judges, former members of the Society—Sir Thomas Littleton of the Common Pleas, author of the celebrated Treatise on Tenures, and his commentator, Sir Edward Coke, Chief Justice of that Court.<sup>3</sup> In 1687 the Benchers took a new departure, and for the first time ordered a portrait to be painted for their Hall at the expense of the Inn. The person selected for this honour was the then Lord Chancellor, Lord Jeffreys, a former member of the House, and "Mr. Neller" (Kneller) received £50 for the picture.<sup>4</sup> It did not long adorn the Hall, however, for after the Revolution of 1688 had wrought Jeffreys' downfall, it was removed to the private chambers of Mr. Holloway, and there remained until Jeffreys' son and successor expressed a desire to have the picture; in response to which the Benchers presented it to him pursuant to a Bench Table Order of February 9th, 1693.<sup>5</sup> In 1694 the same fashionable painter received a further commission from the Society, and full-length portraits of King William and Queen Mary in their Coronation robes were executed for the Hall at a cost (with the frames) of £60.<sup>6</sup> To these was added in 1703, after the accession of Queen Anne, a picture of that Queen, also in Coronation robes, and by the same artist, whose fee had then risen to £80, for the single portrait.<sup>7</sup>

One further painting placed in the Inner Temple Hall during this Queen's reign must be noticed. This was the Pegasus picture which represents that fabled steed (adopted as the armorial cognizance of the Society in the time of Elizabeth)

<sup>1</sup> Treasurers' Accts. Bk. 324; M.T. Cal. 191.

<sup>2</sup> Herbert's Inns of Court, 247. Two other portraits now also hang in the Middle Temple Hall—a picture of King George I painted for the Society in 1716 which cost £50 (Treasurers' Accts. Bk. 415), and one of Queen Elizabeth by an unknown artist of the sixteenth century, purchased in 1879.

<sup>3</sup> I.T.R. II, Intro. lxix, lxx. These pictures had been given to the Inn by Coke's eldest daughter, Mrs. Anne Sadler, with many of her father's books, about 1670.

<sup>4</sup> Gen. Acct. Bk. 274; I.T.R. III, Intro. lxxxii; B.T.O. III. "Paid Mr. Bernard Peircey for the use of Mr. Neller for the picture of the Lord Chancellor Jefferies sett upp in the Hall £50"; Gen. Acct. Bk. 1686-7.

<sup>5</sup> B.T.O. III.

<sup>6</sup> Gen. Acct. Bk. (1693-4).

<sup>7</sup> Gen. Acct. Bk. (1702-3).



leaping aloft from the summit of Mount Helicon, with Mercury pointing him the way to Heaven and the admiring Muses looking on, while the Fountain of Hippocrene rises from the ground stricken by his hoof. Sir James Thornhill, the Court Painter of Queen Anne, was the artist employed to execute this work, for which, in 1709, he received in all £70.<sup>1</sup> In the modern Hall this painting occupies a position at the east end just under the roof and above the Bench Table. It was not originally so placed according to Mr. Inderwick's description of the appearance of the old Hall at the close of Queen Anne's reign :

" At the East end of the Hall the Queen was in the centre with William and Mary and the two Judges Coke and Littleton on either side. Towards the Western end was a screen beyond the screen the music room or gallery and over that Sir James Thornhill's picture which fitted the upper part of the Western wall." <sup>2</sup>

At a later date, however, it was moved to an analogous position in the old Hall to that which it now occupies in the new building.

The Halls of both Societies are now also adorned with the Arms of the Readers, the earliest coat in the case of the Inner Temple being that of Sir Thomas Littleton, who read there in the reign of Henry VI, according to Sir Edward Coke. These Arms were blazoned formerly in other apartments such as the library and parliament chamber. Even so late as the year 1800, when Ireland's book upon the Inns of Court was published, none of them seems to have been in the old Hall of the Inner Temple, for he makes no reference to any being depicted there, but mentions that 350 such coats were then in the parliament chamber.<sup>3</sup> At the Middle Temple the Readers' Arms made their appearance in the Hall at a much earlier date, though it is manifest that they also were not originally placed there, for an inscription on the Hall screen records that they were translated " E Senatu " (no doubt from the parliament chamber) in 1697,

<sup>1</sup> Gen. Acct. Bk. (1708-9).

<sup>2</sup> I.T.R. III, Intro. lxxxviii.

<sup>3</sup> Picturesque View of the Inns of Court, p. 28. In 1670 the Readers' Arms were in the Library : see *ante*, p. 527, note 1. The transference to the old Hall apparently took place in 1816, when 300 escutcheons of Readers' and Treasurers' Arms were arranged freizewise round the wainscoting : see Gent. Mag. 1817, Vol. 87, II, 578.

when Francis Morgan, Esquire, was Treasurer.<sup>1</sup> The earliest coat is that of Richard Swayne, Autumn Reader in 1597.<sup>2</sup> It is blazoned upon a panel on the wainscoting on the east side of the recess containing the south bay window. As they now appear the arms of the Autumn Readers are on the south side of the Hall and those of the Lent Readers on the north side. Age and the grime of London fogs have greatly dimmed their decorative effect,<sup>3</sup> though as other inscriptions on the Hall screen state, they have been three times renovated, viz. in 1755, 1791, and 1808.<sup>4</sup> There are also many ancient Coats of Arms in the windows.<sup>5</sup> These, however, have been rearranged from time to time so that the positions many now occupy are not those in which they were originally placed. In illustration of this may be mentioned the case of the west window over the Bench table, which now contains besides two representations of the Arms of the Inn only Royal Arms and Badges. In 1666, when Sir William Dugdale published his *Origines Juridiciales*, it presented a different appearance, for it then included the Arms of six noblemen members of the Society, each encircled with the Garter, viz. Ludovic Stuart, Duke of Lennox (and later of Richmond); George Villiers, Marquess (and later Duke) of Buckingham; George Talbot, Earl of Shrewsbury; Henry Percy, Earl of Northumberland; Charles Blount, Earl of Devonshire; and Anthony Browne, Viscount Montagu. Of these Arms the Coats of Lennox and Buckingham are now in the third window on the south side of the Hall, those of Shrewsbury, Devonshire, and Montagu in the fifth window on the same side, and the Arms of Northumberland in the third window from the lower end of the Hall on the north side. At the date above-mentioned the only Royal Badges in the west window were the silver falcon in the fetter lock or, and the golden portcullis of the Tudors. The Portcullis has gone, but the Falcon has been joined by the Tudor Rose of Henry VIII and the Fleur de Lis

<sup>1</sup> *Lectorum hujus Societatis Insignia E Senatu translata fuere An' Do' 1697 Francisco Morgan Arm. Thesaurario.*

<sup>2</sup> The arms of seventy earlier Readers of the House are on record, but are not depicted in the Inn.

<sup>3</sup> Some indeed are hardly recognizable.

<sup>4</sup> *Aula decorata et Lectorum Insignia renovata A.D. 1755 & 1791 Ben' Smart Arm. & Præhon. R.P. Arden Mil. Thesaurariis.*

*Aula decorata et pictæ tabulæ renovatæ A.D. 1808 Præhon. Guilhelm. Scott. Mil. Thesaurario.*

<sup>5</sup> Including the arms and badges in the windows of Sovereigns, Judges, and other distinguished members of the Society, there are in all 699 coats blazoned in the Middle Temple Hall: Of these more than 240 are in the windows.

of France, both of which seem to have been formerly <sup>1</sup> in the east window above the Hall screen; while to these has been added the Pomegranate of Granada, a Badge of Katherine of Aragon, probably removed from the old Hall. One other Coat of Arms should be noticed here, that of the learned Edmund Plowden, the builder of the Hall, which was formerly in the upper portion of the fifth window on the south side, but is now at the top of the south bay window.

Unhappily the reader will look in vain for the ancient Hall of the Inner Temple, which was taken down when the present more spacious apartment was erected in a different style of architecture and apparently without any attempt being made to reproduce the internal appearance of the old building. It had suffered many vicissitudes at the hands of repairers since the desire to rebuild it had been recorded in 1632,<sup>2</sup> and to Mr. Addison, writing in 1853, it appeared "so altered and repaired as to have lost almost every trace and vestige of antiquity."<sup>3</sup> Also insufficient for the increasing membership of the Inn, its removal in 1868-70 was perhaps inevitable. But none the less it must be matter for regret that the room which had been the scene of so many interesting events in Temple history, where Littleton and Coke had delivered their Readings, where Lord Robert Dudley had presided over the wonderful Christmas celebrations of 1561, where the accomplished Selden had often shared with his companions of the table the treasures of his learning, and in which Heneage Finch had dined as a student, and later when Reader entertained King Charles II, exists no more. Even the ancient glass which once adorned its windows seems to have been scrapped.<sup>4</sup> In this respect the sister Society of the Middle Temple have been more fortunate. Their ancient Hall still stands redolent of the historic past; and the Benchers, Barristers, and Students of the Inn when they assemble during the dining terms meet under the same roof beneath which Raleigh once sat, which echoed the joyous congratulations

<sup>1</sup> Though without the oval-shaped decoration which now surrounds them.

<sup>2</sup> See *ante*, p. 380.

<sup>3</sup> *Knights Templars* (Edit. 1853), 311.

<sup>4</sup> The great window in the old Hall of the Inner Temple was the east window, which besides the Arms of Edward the Confessor, King James I, and Queen Elizabeth, contained twenty-one other coats of Peers and other distinguished members of the Society. It was here that the Arms of Lord Robert Dudley (Leicester) and Sir Christopher Hatton were blazoned. There were twelve more Coats of Arms in the windows on the north side of the Hall and twenty in those on the south side, among the latter being the Arms of Sir Thomas Littleton and Sir Edward Coke.

bestowed on Sir Francis Drake, and looked down on Shakespeare's company when Twelfth Night was acted during that Feast of the Purification now more than three centuries ago. In its painted windows may still be seen the ancient memorials of the great men of the past, surely for succeeding generations a stimulus to high endeavour. And yet for those who can read deeper there is not wanting in these very memorials a note of sadness. What strenuous toil do they not commemorate, and in the long vista of history how fleeting seems the success with which that toil was crowned ! Forgotten to-day are the struggles and triumphs of those ancient sages of the Law, and of their names even but few are known to those who now sit where once they sat in this noble Hall. What a commentary on earthly ambition and the vanity of human greatness ; and how profoundly true is the legend on that ancient sundial of the Temple, " Shadows we are and like shadows depart ! "



## APPENDICES

### I.—MASTERS OF THE ORDER OF THE TEMPLE IN ENGLAND

*(Magistri Militiæ Templi in Anglia)*

Richard de Hastings . . . . .	1155-1164
Geoffrey FitzStephen . . . . .	1180-1185
William de Nunham	
Aymeric de St. Maur . . . . .	1200-1218
Alan Martel . . . . .	1218-1228
Robert de Sanford . . . . .	1229-1248
Rocelin de Fos . . . . .	1251-1253
Amadeus . . . . .	1259-1260
Ambesard . . . . .	1264
Imbert Peraut . . . . .	1271
Guy de Foresta . . . . .	1273-1274
Robert de Turvill . . . . .	1276-1290
Guy de Foresta . . . . .	1291-1294
Brian de Jay . . . . .	1296-1298
William de la More . . . . .	1298-1312

The names set forth above include only Brethren of the Order of whose Mastership there is authentic proof. The dates given are years in or between which records show they held the office. Thomas Berard, Amberaldus, and Robert de Mounford are found in a list of Masters at one time in the possession of the Order of the Hospital of St. John. But that list is inaccurate, and cannot be relied upon where uncorroborated. Brothers R. de Pointon, Richard Mallebeench, and William de Beaulieu have also been claimed as Masters of the Temple in England by some writers, but in their case also satisfactory proof is wanting. The names of the earliest Masters appear to have been irretrievably lost.

James de Molay also reckoned by the Hospitallers a Master of the Temple in England and formerly included in the above list with the date 1295, is now omitted because a Close Rolls record dated December 8th, 1293, has been found which shows he was then Grand Master of the Order. This makes it difficult to place him among the Masters in England and throws doubt on his alleged tenure of the office. The authorities for the Mastership of William de Nunham leave the date uncertain.

II.—CHANCELLORS AND KEEPERS OF THE GREAT SEAL,  
MEMBERS OF THE TEMPLE SOCIETIES

- 1532. Thomas, Lord Audley, L.C., I.T.
- 1547. Richard, Lord Rich, L.C., M.T.
- 1579. Sir Thomas Bromley, L.C., I.T.
- 1587. Sir Christopher Hatton, L.C., I.T.
- 1625. Thomas, Lord Coventry, L.K., I.T.
- 1641. Edward, Lord Littleton, L.K., I.T.
- 1645. Sir Richard Lane, L.K., M.T.
- 1653. Sir Edward Herbert, L.K., I.T.
- 1658. Edward, Earl of Clarendon, L.C., M.T.
- 1667. Sir Orlando Bridgeman, L.K., I.T.
- 1673. Heneage, Earl of Nottingham, L.C., I.T.
- 1682. Francis, Lord Guilford, L.K., M.T.
- 1685. George, Lord Jeffreys, L.C., I.T.
- 1693. John, Lord Somers, L.C., M.T.
- 1700. Sir Nathan Wright, L.K., I.T.
- 1705. William, Earl Cowper, L.C., M.T.
- 1710. Simon, Lord Harcourt, L.C., I.T.

The dates given are the years in which the Seal was first held. In some cases it was first received as Lord Keeper and the title of Lord Chancellor subsequently conferred.

III.—SPEAKERS OF THE HOUSE OF COMMONS, MEMBERS OF  
THE TEMPLE SOCIETIES

- 1487. Sir John Mordaunt, M.T.
- 1491. Sir Richard Empson, M.T.
- 1496. Sir Thomas Englefield, M.T.
- 1529. Sir Thomas Audley, I.T.
- 1536. Sir Richard Rich, M.T.
- 1539. Sir Nicholas Hare, I.T.
- 1545. Sir John Baker, I.T.
- 1552. Sir James Dyer, M.T.
- 1553. Sir John Pollard, M.T.
- 1554. Sir Robert Brooke, M.T.
- 1562. Thomas Williams, I.T.
- 1566. Richard Onslow, I.T.
- 1572. Sir Robert Bell, M.T.
- 1580. Sir John Popham, M.T.
- 1592. Sir Edward Coke, I.T.
- 1601. Sir John Croke, I.T.
- 1604. Sir Edward Phelips, M.T.
- 1625. Sir Heneage Finch, I.T.
- 1653. Francis Rous, M.T.
- 1656. Bulstrode Whitelocke, M.T.
- 1658. Challoner Chute, M.T.
- 1659. Thomas Bampfylde, M.T.
- 1659. William Say, M.T.
- 1661. Sir Edward Turner, M.T.
- 1678. Sir Robert Sawyer, I.T.
- 1685. Sir John Trevor, I.T.
- 1698. Sir Thomas Littleton, I.T.
- 1701. Robert Harley, M.T.
- 1705. John Smith, M.T.
- 1708. Richard Onslow, I.T.
- 1710. William Bromley, M.T.

Many of the above-named Speakers were elected to the chair more than once; but the years specified are only those in which they were first chosen to fill the office.

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